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Federal Register

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DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 401

[Docket No. 6655S]

Cotton Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Notice of extension of sales closing dates.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) herewith gives notice of the extension of the sales closing date for accepting applications for cotton crop insurance in certain Texas counties where such insurance is otherwise authorized to be offered, effective for the 1989 crop year only.

This action is necessary because changes in the actuarial determinations, with respect to using determined yields to establish a four year base period when less than four years of actual production history has been certified, were delayed which will have the effect of foreshortening the sales period.

The intended effect of this rule is to allow potential applicants and present insureds time to study the effect of these changes.

EFFECTIVE DATE: February 21, 1989.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC 20250, telephone (202) 447-3325.

SUPPLEMENTARY INFORMATION: The sales closing date for accepting applications for cotton crop insurance in certain Texas counties is February 15, 1989. Because of a delay in actuarial filing data on the new four-year base period requirements, resulting in a foreshortening of the marketing period,

FCIC is extending the sales closing date in such counties to March 1, 1989.

Under the provisions of 7 CFR Part 401, the General Crop Insurance Regulations, the sales closing date may be extended by placing the extended date on file in the service office and by publishing a notice in the *Federal Register* upon determination that no adverse selectivity will result from such extension. If adverse conditions develop during the extension period, FCIC will immediately discontinue the acceptance of applications.

Transitional yields (T-Yields), which have been used in conjunction with actual yields to complete a ten-year base period, will no longer be used. Determined yields (D-Yields) will now be used to complete a four-year base period when less than four years of actual production history has been certified. For units with four to ten years of actual production history, a simple average of those actual yields will be the yield used to establish the production guarantee. The new D-Yields are 33 percent higher than the previous T-Yields and, in most cases, their use may result in higher insurance guarantees.

Notice

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation herewith gives notice that the sales closing date of February 15, 1989, for accepting applications for cotton crop insurance under the provisions of 7 CFR 401.119, in the following Texas counties:

Bexar, Edwards, Goliad, Jackson, Karnes, Kendall, Kerr, Wilson, Val Verde, and Victoria Counties, Texas, and all Texas counties lying south thereof * * *

is hereby extended through the close of business on March 1, 1989, effective for the 1989 crop year only:

Authority: 7 U.S.C. 1506, 1516.

Done in Washington, DC on February 8, 1989.

Peter F. Cole,

Acting Manager, Federal Crop Insurance Corporation.

[FR Doc. 89-3923 Filed 2-17-89; 8:45 am]

BILLING CODE 3410-06-M

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. 87-167]

Importation of Meat and Animal Products

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations in 9 CFR Part 94 by uniformly changing the language which prohibits *entry* into the United States of certain animal products, to language which will prohibit the *importation* of these products. This rule will also change the current requirement that specifies certificates accompany certain imported articles, to a requirement that the specified certificates both accompany the articles and be presented to an authorized inspector of the United States Department of Agriculture at the time of importation. This rule will also require that certificates accompany cured and cooked meats imported from countries where foot-and-mouth disease or rinderpest exists and be presented at the port of arrival in the United States. These changes will enhance the ability of the Department to enforce 9 CFR Part 94 and will, therefore, assist the effort to prevent the introduction of certain animal diseases into the United States.

EFFECTIVE DATE: March 23, 1989.

FOR FURTHER INFORMATION CONTACT: Dr. Richard Bowen, Senior Staff Veterinarian, Import-Export Products Staff, VS, APHIS, USDA, Room 757, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-7833.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR Part 94 (referred to below as the regulations) regulate, among other things, the importation into the United States of certain animals, meat, and animal products. These regulations are designed to prevent the introduction into the United States of rinderpest, foot-and-mouth disease, African swine fever, hog cholera, swine vesicular disease, and viscerotropic velogenic Newcastle disease.

We published in the **Federal Register** on September 14, 1987 (52 FR 34677-34682, Docket Number 85-080), a proposal to amend the regulations in several ways. We proposed to change language concerning "entry" into the United States. The term "importation" under the animal quarantine laws means to bring within the territorial limits of the United States. The term "entry" means to introduce into the commerce of the United States after release from government detention. In certain instances in 9 CFR Part 94, terminology prohibiting "entry" is used where terminology prohibiting "importation" is intended. We therefore proposed to uniformly change language in the regulations prohibiting *entry* into the United States of certain animals, meat, and animal products to language prohibiting *importation* of these articles. We also proposed to change the term "port of entry" to "port of arrival" wherever it appears in Part 94; to require that meat certificates be presented to the authorized inspector of the United States Department of Agriculture (the Department) at the port of arrival upon arrival of the meat or meat products in the United States; and to require that certificates, issued by an authorized official of the national government of the country of origin and stating that the meats have been prepared according to the conditions for cooking or curing specified in § 94.4, accompany cured and cooked meats into the United States from countries where rinderpest or foot-and-mouth disease exists and be presented to an authorized inspector at the port of arrival.

Our proposal invited the submission of written comments, which were required to be postmarked or received on or before November 13, 1987. We received three comments. One supported the proposed rule with no changes. The second, submitted by a commercial meat importer, supported the proposed rule, but requested that we specify that we will accept either copies or originals of the required certificates. We recognize that commercial importers are required to submit originals of the certificates to the Department's Food Safety and Inspection Service (FSIS). It has therefore been our policy to accept copies of the certificates. Because we will continue this policy, there is no need to change the proposed rule based on this comment.

The third commenter, an industry association, expressed concern over a proposal to amend 9 CFR Parts 327 and 381 to move sites for inspections of imported commercial meats from inland customs ports to centralized centers at

all-water ports of arrival or other designated ports. The commenter apparently confused our proposed rule with proposed regulations published by FSIS, which carries out inspection of commercial importations of meats. For this reason, we are making no changes based on this comment.

Miscellaneous

Since we published our proposed rule on September 14, 1987, certain of the amendments we proposed on that date have been made final rules in other publications. In a document published on August 18, 1987, in the **Federal Register** (52 FR 30901-30902, Docket 87-089), we amended the introductory paragraph in § 94.8 by removing the Netherlands from the list of countries where African swine fever exists or is believed to exist. In a final rule published on September 8, 1987, in the **Federal Register** (52 FR 33800-33801, Docket Number 86-129), we added the definitions in § 94.0; revised the heading in § 94.1; and redesignated paragraph (b)(3) in § 94.4 as (b)(4), and added a new paragraph (b)(3). In another document published on June 14, 1988 in the **Federal Register** (53 FR 22128-22129, Docket Number 87-187), we redesignated the footnotes in Part 94. Further, in another document published on December 1, 1988, in the **Federal Register** (53 FR 48519-48520), we deleted the definition of "Deputy Administrator;" added the definitions of "Administrator," "Animal and Plant Health Inspection Service" and "Department," and changed certain terminology in 9 CFR Part 94. This final rule reflects these amendments made since the September 14, 1987, proposal. In addition, we have made nonsubstantive changes for the purpose of clarity.

Based on the rationale set forth in the proposal, and with the changes explained above, we are adopting the proposed rule as a final rule.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than \$100 million; will not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the

ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The majority of this rule is concerned with clarifying where certain, currently required, certificates must be presented to U.S. officials upon arrival of certain animal products in the United States, specifying that these certificates must be presented at the port of arrival, rather than at the port of entry. With two exceptions, this rule will not alter the present provisions governing which products require certification when shipped to the United States.

The change that presentation of the certificates be made at the port of arrival will have no economic impact, other than that of facilitating imposition of penalties on violators of the regulations. The Department anticipates that total additional penalties collected annually because of the changes will amount to less than \$4,000.

The change that will affect certification will establish provisions to require certification for importation of cooked or cured meats from countries where rinderpest or foot-and-mouth disease exists. The economic impact of obtaining certification will be minimal, and the products affected will represent significantly less than 1 percent of all such animal products entering the U.S. economy.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

The regulations in this rule contain no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507 *et seq.*).

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR 3015, Subpart V.)

List of Subjects in 9 CFR Part 94

Animal diseases, Imports, Livestock and livestock products, Meat and meat products, Milk, Poultry and poultry products, African swine fever, Exotic Newcastle disease, Foot-and-mouth disease, Fowl pest, Garbage, Hog cholera, Rinderpest, Swine vesicular disease.

Accordingly, 9 CFR Part 94 is amended as follows:

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), NEWCASTLE DISEASE (AVIAN PNEUMOENCEPHALITIS), AFRICAN SWINE FEVER, AND HOG CHOLERA: PROHIBITED AND RESTRICTED IMPORTATIONS

1. The authority citation for Part 94 is revised to read as follows:

Authority: 7 U.S.C. 147a, 150ee, 161, 162, 450; 19 U.S.C. 1306; 21 U.S.C. 111, 114a, 134a, 134b, 134c, and 134f; 31 U.S.C. 9701; 42 U.S.C. 4331, 4332; 7 CFR 2.17, 2.51, and 371.2(d).

2. Section 94.0 is amended by adding the following definitions in alphabetical order to read as follows:

§ 94.0 Definitions.

APHIS representative. An individual employed by Animal and Plant Health Inspection Service, United States Department of Agriculture, who is authorized to perform the function involved.

Authorized inspector. Any employee of the Animal and Plant Health Inspection Service, United States Department of Agriculture, or any other individual who is authorized by the Administrator to enforce this part.

Country of origin. For meat and meat products, the country in which the animal from which the meat or meat products were derived was both raised and slaughtered.

Import (imported, importation) into the United States. To bring into the territorial limits of the United States.

Port of arrival. Any place in the United States at which a product or article arrives, unless the product or article remains on the means of conveyance on which it arrived within the territorial limits of the United States.

United States. The several states, the District of Columbia, Puerto Rico, the Virgin Islands of the United States, Guam, the Northern Mariana Islands, or any other territory or possession of the United States, except as provided in § 94.5 of this part.

Wild swine. Any swine which are allowed to roam outside an enclosure.

3. In § 94.1 paragraph (c) is revised to read as follows:

§ 94.1 Countries where rinderpest or foot-and-mouth disease exists; importations prohibited.

(c) Except as otherwise provided in this part, fresh, chilled, or frozen meat of ruminants or swine raised and slaughtered in a country free of foot-and-mouth disease and rinderpest, as designated in paragraph (a) of this section, which during shipment to the United States enters a port or otherwise transits a country where rinderpest or foot-and-mouth disease exists may be imported if:

(1) The meat is accompanied by the foreign meat inspection certificate required by § 327.4 of this title and, upon arrival of the meat in the United States, the foreign meat inspection certificate is presented to an authorized inspector at the port of arrival;

(2) The meat is placed in the transporting carrier in a hold or compartment which was sealed in the country of origin by an official of such country with serially numbered seals approved by APHIS, so as to prevent contact of the meat with any other cargo, handling of the meat after the hold or compartment is sealed, and the loading of any cargo into and the removal of any cargo from such sealed hold or compartment, en route to the United States;

(3) The serial numbers of the seals used to seal the hold or compartment of the transporting carrier are recorded on the foreign meat inspection certificate which accompanies the meat;

(4) Upon arrival of the carrier in the United States port of arrival, the seals are found by an APHIS representative to be intact, and the APHIS representative finds that there is no evidence indicating that the seals were tampered with; and

(5) The meat is found by an authorized inspector to be as represented on the foreign meat inspection certificate.

§ 94.4 [Amended]

4. Section 94.4 (a)(3)(ii) and (b)(4) are amended by changing "port of entry" to "port of arrival" each time it appears, and by removing "said" each time it appears.

5. In § 94.4, a new paragraph (a)(4) is added to read as follows:

§ 94.4 Cured or cooked meats¹ from countries where rinderpest or foot-and-mouth disease exists.

(4) The cured meat shall be accompanied by a certificate issued by an official of the national government of the country of origin who is authorized to issue the foreign meat inspection

certificate required by § 327.4 of this title, stating that such meat has been prepared in accordance with paragraphs (a)(1), (a)(2) and (a)(3)(i) of this section. Upon arrival of the cured meat in the United States, the certificate must be presented to an authorized inspector at the port of arrival.

§ 94.6 [Amended]

¹ The names and addresses of approved establishments may be obtained from, and requests for approval of an establishment may be made to, the Administrator, Animal and Plant Health Inspection Service, United States Department of Agriculture, Washington, DC 20250.

7. In § 94.6, paragraph (d)(4), the reference to "port of entry" is changed to "port of arrival".

8. Section 94.6 is amended by revising the introductory text in paragraph (g)(1) to read as follows:

§ 94.6 Carcasses of poultry, game birds, and other birds, parts or products thereof, and eggs other than hatching eggs; restrictions, exceptions.

(g) * * *

(1) The eggs are accompanied by a certificate signed by a salaried veterinary officer of the national government of the country in which the eggs were laid. Upon arrival of the eggs in the United States, the certificate must be presented to an authorized inspector at the port of arrival. The certificate must state:

§ 94.8 [Amended]

9. In § 94.8 (a)(2) and (b), all references to "port of entry" are changed to read "port of arrival".

10. In § 94.8, footnote 1 and the reference to it are redesignated as footnote 2.

11. In § 94.8, the introductory text for this section, the introductory text in paragraph (a), and paragraphs (a)(3)(v) and (a)(3)(vi) are revised to read as follows:

§ 94.8 Pork and pork products from countries where African swine fever exists or is reasonably believed to exist.

African swine fever exists or the Administrator has reason to believe that African swine fever exists¹ in: All the

¹ The Administrator bases the reason to believe African swine fever exists in a country on the following factors: (1) When a country allows the

Continued

¹ This does not include any meat that has been sterilized by heat in hermetically sealed containers.

countries of Africa, Brazil, Cuba, Haiti, Italy, Malta, Portugal, and Spain.

(a) No pork or pork products may be imported into the United States from any country listed in this section unless:

* * *

(3) * * *

(v) It was processed at only one processing establishment in a country listed in this section; and

(vi) It is accompanied by a certificate issued by an official of the national government of the country in which the processing establishment is located who is authorized to issue the foreign meat inspection certificate required by § 327.4 of this title, stating that all of the requirements of this section have been met. Upon arrival of the pork or pork products in the United States, the certificate must be presented to an authorized inspector at the port of arrival.

* * *

12. In § 94.9, paragraph (a) is revised to read as follows:

§ 94.9 Pork and pork products from countries where hog cholera exists.

(a) Hog cholera is known to exist in all countries of the world except Australia, Canada, Denmark, Dominican Republic, Fiji, Finland, Iceland, New Zealand, Northern Ireland, Norway, the Republic of Ireland, Sweden, and Trust Territory of the Pacific Islands.¹

* * *

importation of host animals, pork or pork products, or vectors of African swine fever from a country in which African swine fever exists under conditions which the Administrator has determined are less stringent than those prescribed by this chapter for importing host animals, pork or pork products, or vectors of African swine fever into the United States from a country in which African swine fever exists; or (2) When a country allows the importation or use of African swine fever virus or cultures under conditions which the Administrator has determined are less stringent than those prescribed by this chapter for the importation or use of African swine fever virus or cultures into or within the United States; or (3) When a country has a contiguous border with, or is subject to commercial exchange or natural spread of African swine fever host animals, host materials, or vectors with, another country with known outbreaks of African swine fever; or (4) A country's lack of a disease detection, control or reporting system capable of detecting or controlling African swine fever and reporting it to the United States in time to allow this country to take appropriate action to prevent the introduction of African swine fever into the United States; or, (5) Any other fact or circumstance found to exist which constitutes a risk of introduction of African swine fever into the United States.

¹ See also other provisions of this part and Parts 92, 95, and 96 of this chapter, and 327 of this title for other prohibitions and restrictions upon importation of swine and swine products.

§ 94.9 [Amended]

13. In § 94.9, paragraph (b)(2), the reference to "§ 94.9(b)(1) (ii) or (iii)" is changed to read "paragraphs (b)(1) (ii) or (iii) of this section" and the reference to "the regulations in § 327.2 in Chapter III of this title" is changed to read "§ 327.2 of this title".

14. In § 94.9, paragraph (b), the introductory text and paragraph (b)(3) are revised to read as follows:

* * *

(b) No pork or pork product may be imported into the United States from any country where hog cholera is known to exist unless it complies with the following requirements:

* * *

(3) In addition to the foreign meat inspection certificate required by § 327.4 of this title, pork and pork products prepared under paragraphs (b)(1) (ii) or (iii) of this section shall be accompanied by a certificate that states that paragraph (b)(1) (ii) or (iii) of this section has been met. This certificate shall be issued by an official of the national government of the country of origin who is authorized to issue the foreign meat inspection certificate required by § 327.4 of this title.² Upon arrival of the pork or pork products in the United States, the certificate must be presented to an authorized inspector at the port of arrival.

* * *

15. In § 94.9, paragraph (c), the reference to "the requirements of § 94.9(b)(1)(iii)" is changed to read "paragraph (b)(1)(iii) of this section", and the reference to "the provisions of § 94.12(b)(1)(iii)" is changed to read "§ 94.12(b)(1)(iii) of this part".

16. Section 94.10 is revised to read as follows:

§ 94.10 Swine from countries where hog cholera exists.

(a) Hog cholera is known to exist in all countries of the world except Australia, Canada, Denmark, Dominican Republic, Fiji, Finland, Iceland, New Zealand, Northern Ireland, Norway, the Republic of Ireland, Sweden, and Trust Territory of the Pacific Islands. No swine which are moved from or transit any country in which hog cholera is known to exist may be imported into the United States except wild swine imported into the United States in accordance with paragraph (b) of this section.

² The certification required may be placed on the foreign meat inspection certificate prescribed by § 327.4 of this title or may be contained in a separate document.

(b) Wild swine may be allowed importation into the United States by the Administrator upon request in specific cases under § 92.4(c) or § 92.2 of this chapter.

17. In § 94.11, the introductory text in paragraph (c) is revised to read as follows:

§ 94.11 Restrictions on importation of meat and other animal products from specified countries.

* * *

(c) *Additional certification.* Meat of ruminants or swine or other animal products from countries designated in paragraph (a) of this section must be accompanied by additional certification by a full-time salaried veterinary official of the agency in the national government that is responsible for the health of the animals within that country. Upon arrival of the meat of ruminants or swine or other animal product in the United States, the certification must be presented to an authorized inspector at the port of arrival. The certification must give the name and official establishment number of the establishment where the animals were slaughtered, and shall state that:

* * *

18. In § 94.12, the introductory text in paragraph (b), paragraph (b)(3), and footnote 2 are revised to read as follows:

§ 94.12 Pork and pork products from countries where swine vesicular disease exists.

* * *

(b) No pork or pork product may be imported into the United States from any country where swine vesicular disease is known to exist unless it complies with the following requirements and it is not otherwise prohibited importation into the United States under this part:

* * *

(3) In addition to the foreign meat inspection certificate required in § 327.4 of this title, pork or pork products prepared under paragraph (b)(1) (ii), (iii) or (iv) of this section shall be accompanied by certification that paragraph (b)(1)(ii), (b)(1)(iii)(A), or (b)(1)(iv)(B)(2) of this section has been met. The certification shall be issued by an official of the national government of the country of origin who is authorized to issue the foreign meat inspection certificate required by § 327.4 of this title.² Upon arrival of the pork or pork products in the United States, the certificate must be presented to an

² See footnote 2 in § 94.9 of this part.

authorized inspector at the port of arrival.

19. In § 94.12, the first sentence in footnote 1 is revised to read:

¹ The names and addresses of approved establishments may be obtained from, and request for approval of any establishment may be made to, the Administrator, c/o Import-Export Products Staff, VS, APHIS, USDA, Room 757, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. * * *

§ 94.13 [Amended]

20. In § 94.13, in the introductory text, the reference to "or which vesicular disease is considered to exist;" is removed and the reference to "Part 327, Subchapter A, Chapter III of this title" is changed to read "Part 327 of this title".

21. In § 94.13, paragraph (a) and the introductory text of paragraph (b) are revised to read:

§ 94.13 Restrictions on Importation of pork or pork products from specified countries.

* * * * *

(a) All such pork or pork products, except those treated in accordance with § 94.12(b)(1)(i) of this part, shall have been prepared only in inspected establishments that are eligible to have their products imported into the United States under the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) and under § 327.2 of this title and shall be accompanied by the foreign meat inspection certificate required by § 327.4 of this title. Upon arrival of the pork or pork products in the United States, the foreign meat inspection certificate must be presented to an authorized inspector at the port of arrival.

(b) Unless such pork or pork products are treated according to one of the procedures described in § 94.12(b) of this part, the pork or pork products must be accompanied by an additional certificate issued by a full-time salaried veterinary official of the agency in the national government responsible for the health of the animals within that country. Upon arrival of the pork or pork products in the United States, the certificate must be presented to an authorized inspector at the port of arrival. The certificate shall state the name and official establishment number of the establishment where the swine involved were slaughtered and the pork was processed. The certificate shall also state that:

* * * * *

22. In § 94.13, paragraph (b)(3), the reference to "94.13" is changed to read "section".

23. Section 94.14 is revised to read:

§ 94.14 Swine from countries where swine vesicular disease exists; Importations prohibited.

(a) Swine vesicular disease is known to exist in all countries of the world except those listed in § 94.12(a) of this part. No swine which are moved from or transit any country in which swine vesicular disease is known to exist may be imported into the United States except wild swine imported in accordance with paragraph (b) of this section.

(b) Wild swine may be allowed importation into the United States by the Administrator upon request in specific cases under § 92.4(c) or § 92.2 of this chapter.

§ 94.16 [Amended]

24. In § 94.16, the first sentence in footnote 1 is revised to read:

¹ The names and addresses of approved establishments or warehouses or information as to approved manner of processing, and request for approval of any such establishment, warehouse, or manner of processing may be made to the Administrator, c/o Import-Export Products Staff, VS, APHIS, USDA, Room 757, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. * * *

§ 94.17 [Amended]

25. In § 94.17(o), the reference to "(9 CFR 94.17)" is removed.

Done in Washington, DC, this 14th day of February 1989.

James W. Glosser,
Administrator, Animal and Plant Health
Inspection Service.

[FR Doc. 89-3806 Filed 2-17-89; 8:45 am]

BILLING CODE 3410-34-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 550

[No. 89-185]

Trust Powers of Federal Associations

Date: February 9, 1989.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: The Federal Home Loan Bank Board ("Board"), as operating head of the Federal Savings and Loan Insurance Corporation ("Corporation"), is amending its regulations concerning trust powers of Federal associations by expanding the authority delegated to the Principal Supervisory Agent ("PSA"). This amendment authorizes the PSA, or

his designee, to approve or disapprove any trust powers application which presents no unusual policy considerations. This expansion of authority will shorten the decision chain and enable the agency to respond more quickly and efficiently to Trust Powers applications. In addition, this amendment authorizes the PSA to issue certification to associations surrendering approved trust powers.

EFFECTIVE DATE: February 21, 1989.

FOR FURTHER INFORMATION CONTACT: Robyn Dennis, Financial Analyst, (202) 331-4572, Office of Regulatory Activities, 801 17th Street NW., Washington, DC 20006.

SUPPLEMENTARY INFORMATION: The Board has previously delegated significant elements of its supervisory and examination functions to the Federal Home Loan Banks ("FHLBanks"), under the direction of the PSAs. By establishing the Office of Regulatory Activities, ("ORA") as part of the Federal Home Loan Bank System (Board Resolution No. 86-755), the Board determined that its purpose of improving the effectiveness of its examination and supervisory functions would be furthered.

As part of this organizational restructuring, the Board, upon consideration of a recommendation by ORA and the Office of District Banks ("ODB"), has determined that delegation of routine casework presently performed by Washington offices can be more efficiently and effectively carried out by relying on the FHLBanks.

This delegation does not diminish the statutory responsibility of the Board to, through ORA, oversee, control, and where necessary improve the functions of examination and supervision. It will, however, expedite delivery of decisions.

Pursuant to 12 CFR 508.11 and 508.14, the Board finds that, because these amendments relate to rules of Board organization, procedure, and practice, notice and public procedure are unnecessary, as is the 30-day delay of the effective date.

List of Subjects in 12 CFR Part 550

Reporting and recordkeeping requirements, Savings and loan associations, Trusts and trustees.

Accordingly, the Federal Home Loan Bank Board hereby amends Part 550, Subchapter C, Chapter V, of Title 12, Code of Federal Regulations, as set forth below.

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM**PART 550—TRUST POWERS OF FEDERAL ASSOCIATIONS**

1. The authority for Part 550 continues to read as follows:

Authority: Sec. 403, 94 Stat. 132, 12 U.S.C. 1464(n); secs. 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended (12 U.S.C. 1725, 1726, 1730); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943-1948 Comp., p. 1071.

2. Amend § 550.2 by revising paragraph (c) introductory text; removing paragraph (c) and redesignating paragraphs (c)(2) through (c)(11) as paragraphs (c)(1) through (c)(10).

§ 550.2 Applications.

* * * * *

(c) The Principal Supervisory Agent, or his designee, is authorized to approve or disapprove any application filed under this section, that does not raise any significant issues of law or policy on which the Board has not taken a formal position. If each of the following conditions are not met, the Principal Supervisory Agent's (or his designee's) approval of such application must be made conditional upon each being met:

* * * * *

3. Amend § 550.14 by substituting "Principal Supervisory Agent" for "Board" in paragraphs (a), (b), and (c), and by adding the following sentence to the end of paragraph (a):

§ 550.14 Surrender of trust powers.

(a) * * * In addition, the association must submit to the Principal Supervisory Agent an opinion from its legal counsel stating that the association has been discharged from all fiduciary duties which it has undertaken, with respect to the trust services it has provided.

* * * * *

By the Federal Home Loan Bank Board.

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 89-3828 Filed 2-17-89; 8:45 am]

BILLING CODE 6720-01-M

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 39**

[Docket No. 88-CE-26-AD; Amdt. 39-6144]

Airworthiness Directives; Beech 33, T34, 35, 36, T42, 55, 56, and 95 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to certain Beech 33, T34, 35, 36, T42, 55, 56, and 95 Series airplanes, which requires repetitive inspections of the magnesium elevator control fittings, and if any are found cracked, replacement thereof with aluminum fittings. The FAA has received several reports of these fittings cracking in service. Cracking of the magnesium fittings, if allowed to go uncorrected, may result in vibration, loss of elevator control and possible loss of the airplane.

DATES: Effective Date: March 24, 1989.

Compliance: As prescribed in the body of the AD.

ADDRESSES: Beech Service Bulletin Number 2242, Revision 1, dated August 1988, applicable to this AD may be obtained from Beech Aircraft Corporation, Commercial Service, Dept. 52, P. O. Box 85, Wichita, Kansas 67201-0085, Telephone (316) 681-7111. This information also may be examined at the Rules Docket, FAA, Office of the Assistant Chief Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Larry Engler, Federal Aviation Administration, Wichita Aircraft Certification Office, ACE-120W, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 946-4409.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an AD requiring inspection of the magnesium elevator control fittings for cracks in the vicinity of the four holes used to attach the fitting to the elevator and in areas around the fitting lightening holes on certain Beech 33, T34, 35, 36, T42, 55, 56, and 95 Series airplanes was published in the Federal Register on September 27, 1988 (53 FR 37588). The proposal resulted from seven reports of cracks in the magnesium elevator control fitting in the vicinity of the four holes used to attach the fitting to the elevator and in areas around the lightening holes. Another report involved an in-flight failure of this fitting which resulted in the loss of elevator control and severe vibrations. Failure of this fitting could result in the loss of the airplane. As a result, Beech developed Service Bulletin Number 2242, Revision 1, dated August 1988, that defines procedures to inspect these fittings, and if found cracked, replacement thereof with an aluminum alloy casting.

Since the condition described is likely to exist or develop in other Beech

Models of the same design, the FAA proposed an AD which would require compliance with the Beech service bulletin on Beech 33, T34, 35, 36, T42, 55, 56, and 95 Series airplanes.

Interested persons have been afforded an opportunity to comment on the proposal. Twenty-two commenters responded. Several commenters stated that a magnesium control fitting has never failed in a Beech Model T34 airplane. The FAA agrees that there is no service history of the T34 fittings cracking but believes that this critical fitting has the potential for cracking at the attachment and lightening holes due to its design similarity to the fittings previously found cracked.

One commenter states that a voluntary visual inspection before each flight would be sufficient to check for cracks in the fitting. Another commenter stated that a one-time inspection would be adequate, whereas several commenters felt that a voluntary annual inspection is adequate. The FAA disagrees. The FAA has received three additional reports of cracked magnesium elevator control fittings and two more reports of broken fittings on the Beech Baron Series airplanes since the NPRM was published in the Federal Register. There are now a total of thirteen occurrences where these fittings have been found cracked or failed. Therefore, the FAA is convinced that a periodic mandatory inspection is necessary until an aluminum fitting is installed.

Most of the commenters stated that the 25 hour inspection interval was too short. Several commenters felt that 100 hours is more appropriate than 25 hours. The FAA agrees that the 100 hour inspection interval in the proposed AD is appropriate.

Several commenters were concerned with the cost of compliance with the AD. The FAA has determined that the replacement of the magnesium fittings is required only if they are found to be cracked.

Accordingly, the proposal is adopted without change.

The FAA has determined that there are approximately 15,000 airplanes affected by this AD. The cost of labor to inspect an airplane is estimated to be \$40 for a total cost of \$600,000 to inspect the entire fleet. The cost of labor and parts to replace both fittings is estimated to be \$1,120 per airplane.

The total cost to replace all fittings in the entire fleet is estimated to be \$16,800,000 to the private sector. The cost of compliance with the AD is so small that it would be necessary that a small entity own four or more of the

affected airplanes for there to be a significant financial impact on these entities. Few, if any, small entities will own this many of the affected airplanes.

The regulations adopted herein will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Therefore, I certify that this action (1) is not a "major rule" under Executive Order 12291, (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979), and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES".

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the FAR as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Rev., Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new AD:

Beech: Applies to the airplanes listed below, certificated in any category:

Models	Serial numbers
36.....	E-1 through E-184
95-55, 95-A55, 95-B55, 95-B55A, 95-C55, 95-C55A, D55, D55A, 56TC.....	TC-1 through TC-1287
95, B95, B95A D55A, E95.	TE-1 through TE-767
	TG-2 Through TG-83
	TD-2 through TD-721

This AD also applies to any of the following military airplanes which have been modified for civil certification as described on the applicable Federal Aviation Administration Type Certificate Data Sheet or Aviation Specification:

T34A, T34B (Commercial Model 45 Series)
T42A (Commercial Model 95-B55B)

Note.—The magnesium fittings may have been installed as original equipment or as replacement spares.

Compliance: Required as indicated, unless already accomplished.

To prevent the failure of the magnesium elevator control fittings, accomplish the following:

(a) Within 100 hours time-in-service (TIS) after the effective date of this AD, determine the composition of the elevator control fittings in accordance with the instructions contained in Beech Service Bulletin No. 2242, Revision 1, dated August 1988.

(1) If the fittings are determined to be aluminum, no further action is required by this AD.

(2) If the fittings are determined to be magnesium, accomplish the actions specified below.

(b) At the time of the inspection per paragraph (a), and every 100 hours TIS thereafter, visually inspect each magnesium elevator control fitting for cracks in accordance with the above referenced Service Bulletin.

(c) If any fitting is found to be cracked, prior to further flight replace the cracked fitting with an aluminum fitting as described in the above referenced Service Bulletin.

(d) The above inspections are no longer required when aluminum fittings have been installed on both elevators.

(e) Airplanes may be flown in accordance with FAR 21.197 to a location where this AD may be accomplished.

(f) An equivalent means of compliance with this AD may be used if approved by the Manager, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 946-4400.

All persons affected by this directive may obtain copies of the documents referred to herein upon request to Beechcraft Aero and Aviation Centers; Beech Aircraft Corporation, Commercial Service, Dept. 52, P.O. Box 85, Wichita, Kansas 67201-0085, or may examine these documents at the FAA, Office of the Assistant Chief Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64108.

This amendment becomes effective on March 24, 1989.

Issued in Kansas City, Missouri, on February 7, 1989.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89-3903 Filed 2-17-89; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 88-NM-99-AD; Amdt. 39-6146]

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 747 series airplanes, which requires inspection of the fuselage skin lap splice between body station (BS) 400 and BS 520 at stringers S-6L and S-6R. This amendment is prompted by a recent report of multiple adjacent cracks found on one airplane. This condition, if not corrected, could lead to sudden loss of cabin pressurization and the inability to withstand fail-safe loads.

EFFECTIVE DATE: March 31, 1989.

ADDRESSES: The applicable service information may be obtained from Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Dan R. Bui, Airframe Branch, ANM-120S; telephone (206) 431-1919. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive which requires inspection of the fuselage skin lap splice between body station (BS) 400 and BS 520 at stringer S-6L and S-6R on Boeing Model 747 series airplanes, was published in the Federal Register on September 2, 1988 (53 FR 19957). The comment period for the proposal closed on October 27, 1988.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due

Models	Serial numbers
35-33, 35-A33, 35-B33, 35-C33, E33, 35-C33A, E33A.....	C-1 through CD-1234
E33C.....	CE-1 through CE-289
35, 35R, A35, B35, C35, D35, E35, F35, G35, H35 J35, K35, M35, N35, P35, S35, V35, V35-TC, V35A, V35A-TC.	CJ-1 through CJ-25 D-1 through D-8068, D-15001 and D-15002

consideration has been given to the two comments received.

Both commenters requested that the proposal be revised to include a flight cycle counting criteria in which flights with cabin pressures of 1.5 psi or below need not be counted when determining the number of landings. The FAA concurs, since the counting criteria was the intent of the FAA in formulating the compliance times. Accordingly, the final rule has been revised to add a new paragraph G. to address this subject.

One commenter requested the FAA to consider the inclusion of the phrase "or later FAA-approved revision" to avoid any future communications to clarify the applicable revision levels of the service bulletin. The FAA does not concur, since it is the FAA's policy to avoid the use of such a phrase in rulemaking actions. Later revisions of the service bulletin may be approved as an alternate means of compliance with this AD, as provided by paragraph I.

The manufacturer suggested that use of a repair method for affected lap splices, in accordance with Boeing Alert Service Bulletin 747-53A2303, be included where appropriate, so that action would not be limited to accomplishing only the preventative modification. The FAA concurs that repair in accordance with the service bulletin, in certain circumstances, is appropriate, provided that the area is repetitively inspected. Paragraphs D. and E. of the final rule have been revised accordingly.

The manufacturer requested that the wording of paragraph E. of the final rule be changed from "If there are no more than three cracks that are less than 0.10 inch in length * * *" to "If there are no more than three cracks and the cracks are less than 0.10 inch in length * * *." The FAA concurs; the suggested wording clarifies the intent of the rule. The final rule has been revised accordingly.

Paragraph F. of the final rule has been revised to delete reference to approval of repair methods by FAA Designated Engineering Representatives (DER) of the Boeing Company. The Manager of the Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, is the official delegated the authority to approve designs or repair methods that may be used to provide an acceptable level of safety in accordance with this AD. While DER's are authorized to determine whether a design or repair method complies with a specific requirement, they are not authorized to make the discretionary determination as to what the applicable requirement is.

After careful review of the available data, including the comments noted

above, the FAA has determined that air safety and the public interest require the adoption of the following rule, with the changes previously noted. These changes do not increase the scope of the rule nor the economic burden on the operators.

There are approximately 628 Model 747 series airplanes of the affected design in the worldwide fleet. It is estimated that 200 airplanes of U.S. registry will be affected by this AD, that it will take approximately 8 manhours per airplane to accomplish the required actions, and that the average labor cost will be \$40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be \$64,000.

The regulations adopted herein will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12812, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic impact, positive or negative, on a substantial number of small entities, because few, if any, Model 747 airplanes are operated by small entities. A final evaluation has been prepared for this regulation and has been placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Boeing: Applies to all Model 747 series airplanes, listed in Boeing Alert Service Bulletin 747-53A2303, dated June 2, 1988, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent a failure of the fuselage skin lap splice between body station (BS) 400 and BS 520 at stringer S-6L and S-6R, accomplish the following:

A. Conduct close visual and high frequency eddy current (HFEC) inspection of the fuselage skin lap splice between BS 400 and BS 520, at stringers S-6L and S-6R for cracking, in accordance with Boeing Alert Service Bulletin 747-53A2303, dated June 2, 1988, at the following thresholds:

1. Within the next 100 landings after the effective date of this AD for airplanes that have accumulated 16,000 or more landings as of the effective date of this AD.

2. Within the next 1,000 landings after the effective date of this AD or prior to the accumulation of 16,100 landings, whichever occurs first, for airplanes that have accumulated between 12,000 and 16,000 landings, as of the effective date of this AD.

3. Prior to the accumulation of 13,000 landings for airplanes that have accumulated 12,000 or fewer landings as of the effective date of this AD.

Adequate lighting must be used for this inspection. The eddy current inspections may be conducted without removal of the paint, provided the paint does not interfere with the inspections. Paint must be removed, using an approved chemical stripper, in any situation where the inspector determines that the paint is interfering with the proper functioning of the inspection instrument.

B. On airplanes which have been modified to the stretched-upper-deck configuration, as identified in Boeing Alert Service Bulletin 747-53A2303, dated June 2, 1988, the accumulated landing threshold for compliance with paragraph A., above, is measured from the time of the stretched-upper-deck modification.

C. If no cracking is detected, repeat the close visual and HFEC inspections required by paragraph A., above, at intervals not to exceed 5,000 landings.

D. If cracks are detected, accomplish the repair or preventive modification of the affected lap splice in accordance with Boeing Alert Service Bulletin 747-53A2303, dated June 2, 1988, prior to further pressurized flight except as noted in paragraph E., below. If cracks are repaired in local areas without accomplishing preventive modification of the entire affected lap area, continue inspections of the unmodified and unrepaired areas of the affected lap splice in accordance with paragraph C., above.

E. If there are no more than three cracks and the cracks are less than 0.10 inch in length from BS 340 to BS 520, as defined in the Boeing Alert Service Bulletin 747-53A2303, dated June 2, 1988, per lap splice, accomplish the repair or preventive modification of the affected lap splice, in

accordance with Boeing Alert Service Bulletin 747-53A2303, dated June 2, 1988, prior to the accumulation of 1,500 additional landings, provided that the non-repaired area is reinspected in accordance with paragraph A., above, at intervals not to exceed 100 landings.

F. For airplanes incorporating the preventative modification, as described in Boeing Alert Service Bulletin 747-53A2303, dated June 2, 1988, accomplish the inspections required by paragraph A., above, prior to the accumulation of 10,000 landings after the modification and thereafter at intervals not to exceed 5,000 landings. If cracks are found, repair in accordance with a method approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, prior to the next pressurized flight.

G. For the purposes of complying with this AD, the number of landings may be determined to equal the number of pressurization cycles where the cabin pressure differential was greater than 1.5 psi.

H. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

I. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

Note.—The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who may add any comments and then send it to the Manager, Seattle Aircraft Certification Office.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective March 31, 1989.

Issued in Seattle, Washington, on February 9, 1989.

Leroy A. Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89-3902 Filed 2-17-89; 8:45 am]

BILLING CODE 4910-13-M

ACTION: Final rule.

SUMMARY: The Commission amends § 4.10(g) of its Rules of Practice and Procedure, 16 CFR 4.10(g). This rule governs disclosure in administrative or judicial proceedings of material obtained by the Commission and it requires that notice be provided to the submitter prior to disclosure of such material. The Commission has determined that this notice requirement is broader than necessary to satisfy its statutory obligations and preserve the legitimate confidentiality interests of the submitter. The amended rule eliminates the notice requirement for material other than that specifically protected under sections 6(f) and 21 of the Federal Trade Commission Act, 15 U.S.C. 46(f), 57b-2. This amendment is intended to allow disclosure in administrative or judicial proceedings of publicly available or otherwise nonsensitive material that is not protected by statute without first notifying the submitter of such material. It will not affect the current parity of treatment accorded material submitted under compulsory process and material submitted voluntarily in lieu of compulsory process in response to informal access requests. Although this rule is effective immediately, the Commission invites comments. The Commission will review all comments received, and take whatever action, if any, it deems appropriate.

DATES: *Effective date:* The rule is effective February 21, 1989.

Comment date: Comments will be received until March 23, 1989.

ADDRESS: Send comments to Federal Trade Commission, 6th Street and Pennsylvania Avenue, NW., Room 159, Washington, DC 20850.

FOR FURTHER INFORMATION CONTACT: Marc Schneider, Office of the General Counsel, (202) 326-2062.

SUPPLEMENTARY INFORMATION: The current rule provides that any material obtained by the Commission, including transcripts of oral testimony, may not be disclosed in Commission adjudicative or in court proceedings unless the submitter is first given an opportunity to obtain a protective or *in camera* order. This notice requirement is broader than necessary to comply with the statutory requirements of sections 6(f) and 21 of the Federal Trade Commission Act, 15 U.S.C. 46(f), 57b-2. The Act protects only certain types of information—specifically, material that is: (1) Obtained through compulsory process or voluntarily in lieu thereof (*see* sections 21 (b) and (f), 15 U.S.C. 57b-2 (b) and (f), and Rule 4.10(d)); (2) designated by the submitter as confidential (*see* section

21(c)(1), 15 U.S.C. 57b-2(c)(1), and Rule 4.10(e)); or (3) confidential commercial or financial information (*see* section 6(f), 15 U.S.C. 46(f), and Rule 4.10(a)(2)). The amendment limits the prior notice requirement of Rule 4.10(g) to material subject to the protections of sections 6(f) or 21. Under the amended rule, prior notice is no longer required when the material to be disclosed has not been designated as confidential, has not been submitted under compulsory process or voluntarily in lieu of compulsory process, and is not confidential commercial or financial information. The amended rule will prevent any unnecessary costs and delays caused by the prior notice requirement in the current rule.

List of Subjects in 16 CFR Part 4

Administrative practice and procedure, Nonpublic information.

16 CFR Part 4 is amended as follows:

PART 4—MISCELLANEOUS RULES

1. The authority for Part 4 continues to read as follows:

Authority: Sec. 6, 38 Stat. 721 (15 U.S.C. 46).

2. Section 4.10(g) is revised to read as follows:

§ 4.10 Nonpublic Information.

* * * * *

(g) Material (including transcripts of oral testimony) obtained by the Commission:

(1) Through compulsory process or voluntarily in lieu thereof, and protected by sections 21 (b) and (f) of the Federal Trade Commission Act, 15 U.S.C. 57b-2 (b), (f), and 4.10(d) of this part; or

(2) That is designated by the submitter as confidential, and protected by section 21(c) of the Federal Trade Commission Act, 15 U.S.C. 57b-2(c), and § 4.10(e) of this part; or

(3) That is confidential commercial or financial information protected by section 6(f) of the Federal Trade Commission Act, 15 U.S.C. 46(f), and § 4.10(a)(2) of this part, may be disclosed in Commission administrative or court proceedings subject to Commission or court protective or *in camera* orders as appropriate. *See* §§ 1.18(b) and 3.45.

Prior to disclosure of such material or transcripts in a proceeding, the submitter will be afforded an opportunity to seek an appropriate protective or *in camera* order. All other material obtained by the Commission may be disclosed in Commission administrative or court proceedings at

FEDERAL TRADE COMMISSION

16 CFR Part 4

Procedure and Practice; Miscellaneous Rules

AGENCY: Federal Trade Commission.

the discretion of the Commission except where prohibited by law.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 89-3768 Filed 2-17-89; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 2

[Docket No. RM87-34-000; Order No. 500-G]

Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol; Order Denying Rehearing

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule; order denying rehearing.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is denying rehearing of Order No. 500-F. That order extended from December 31, 1988 to March 31, 1989, the deadline previously set in Order No. 500 for filing final tariff sheets to recover take-or-pay buyout and buydown costs under the alternative passthrough mechanism described in Order No. 500. Order No. 500-F also granted pipelines an exception to the deadline of March 31, 1989, for contracts in litigation on that date (53 FR 50924 (December 19, 1988)). Four petitions for rehearing were filed in this rulemaking docket. The Commission is denying the rehearing requests on the grounds that they are without merit or more properly addressed in the pending *Tennessee Gas Pipeline Co.* proceeding. **EFFECTIVE DATE:** This order is effective February 8, 1989.

FOR FURTHER INFORMATION CONTACT: Richard O. Howe, Jr., Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, (202) 357-8274.

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the Federal Register, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in Room 1000 at the Commission's Headquarters, 825 North Capitol Street, NE., Washington, DC 20426.

The Commission Issuance Posting System (CIPS), an electronic bulletin

board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing (202) 357-8997. To access CIPS, set your communications software to use 300, 1200 or 2400 baud, full duplex, no parity, 8 data bits, and 1 stop bit. The full text of this order will be available on CIPS for 10 days from the date of issuance. The complete text on diskette in WordPerfect format may also be purchased from the Commission's copy contractor, La Dorn Systems Corporation, also located in Room 1000, 825 North Capitol Street, NE., Washington, DC 20426.

Before Commissioners: Martha O Hesse, Chairman; Charles G. Stalon, Charles A. Trabandt, Elizabeth Anne Moler and Jerry J. Langdon.

Order Denying Rehearing

Issued February 8, 1989.

In Order No. 500-F, 53 FR 50924 (Dec. 19, 1988), the Commission extended from December 31, 1988 to March 31, 1989, the deadline it had previously set in Order No. 500, 52 FR 30334 (Aug. 14, 1987), for the filing of final tariff sheets including all take-or-pay buyout or buydown costs eligible for recovery under the alternative passthrough mechanism described in Order No. 500. Order No. 500-F also granted pipelines an exception to the deadline of March 31, 1989, for contracts in litigation on that date, whereby pipelines may file by March 31, 1989, to include in their tariffs language permitting them to pursue the litigation to its natural end (of judgment and final appeal or settlement) and then to file to recover eligible costs resulting from these contracts under the equitable sharing mechanism of Order No. 500.

Four timely requests for rehearing of Order No. 500-F have been filed. Two of these requests—one filed by CNG Transmission Corporation (CNG) and the other, jointly, by Rochester Gas and Electric Corporation and Connecticut Natural Gas Corporation (Roc-Conn)—seek rehearing of Order No. 500-F only to the extent it applies to Tennessee Gas Pipeline Company's (Tennessee) Order No. 500 settlement, 42 FERC ¶ 61,175, *reh'g granted in part*, 43 FERC ¶ 61,329 (1988). By order issued December 16, 1988, 45 FERC ¶ 61,431, *modified*, 46 FERC ¶ 61,022 (1989), the Commission (subject to the leave of the United States Court of Appeals for the District of Columbia Circuit) extended to March 31, 1989, the deadline under Tennessee's settlement for Tennessee to file to recover take-or-pay buyout and buydown costs eligible for recovery under Order No. 500's alternative

passthrough mechanism and granted Tennessee the same exception for contracts in litigation as was granted to pipelines in general by Order No. 500-F. Rehearing of the December 16, 1988, Tennessee order is pending before the Commission. In these circumstances, we find it more appropriate to address the issues raised here by CNG and Roc-Conn with respect to the Tennessee settlement in the pending proceeding involving rehearing of Tennessee's December 16, 1988 order and to deny their requests for rehearing here.

United Distribution Companies (UDC) argue that the Commission failed to provide any evidence to justify extending the deadline or a credible rationale for the creation of the litigation exception. The State of Michigan and the Michigan Public Service Commission (Michigan) assert that Order No. 500-F increases the likelihood of retroactive ratemaking by extending the period during which past take-or-pay costs are allowed to be recovered in current rates. Furthermore, Michigan argues that Order No. 500-F extends the discriminatory aspects of Order No. 500 insofar as interruptible transportation and sales customers will continue to escape totally the burden of sharing take-or-pay costs. In addition, Michigan asserts that the litigation exception permitting pipelines to file tariff language indefinitely extending the period during which they can impose cost sharing for take-or-pay contracts in litigation on March 31, 1989, contradicts the policy established in Order No. 500 that a pipeline may only file to recover "buyout and buydown costs actually paid as of the date of filing plus any similar costs which are known and measurable within the following nine months," 18 CFR § 2.104(c) (1988). Finally, Michigan, like CNG, asserts that Order No. 500-F is legally deficient in that it fails to provide a rationale for the litigation exception.

The issues raised on rehearing by UDC and Michigan are without merit and will be denied. Contrary to the assertions made by both, the Commission explained in Order No. 500-F that the short extension of the deadline date for filing final tariff sheets under Order No. 500's alternative passthrough mechanism was necessary and reasonable to permit pipelines and producers to bring to an orderly conclusion their settlement negotiations.

Prior to the issuance of Order No. 500-F, the Commission consistently permitted pipelines an exception from the Order No. 500 deadline in the case of contracts in litigation as of the deadline date. See *United Gas Pipe Line Co.*, 45

FERC ¶ 61,140 (1988); *Natural Gas Pipeline Co. of America*, 45 FERC ¶ 61,148 (1988); *Trunkline Gas Co.*, 44 FERC ¶ 61,407 (1988); *El Paso Natural Gas Co.*, 43 FERC ¶ 61,576 (1988). This litigation exception was merely enunciated again in Order No. 500-F. The revised tariff language providing for the litigation exception which a pipeline must file does not, as Michigan asserts, require its customers to pay costs which are unknown and unmeasurable. The revised tariff language will not itself require the customers to pay any costs. It simply provides the customers notice that for contracts which are in litigation on March 31, 1989, the pipeline may pursue the litigation to its natural end and then file to recover eligible costs. When the subsequent filing is made, the costs will be known and measurable. The Commission believes the litigation exception will decrease the likelihood of hasty and expensive settlements at the expense of the parties' foregoing whatever avenues of legal redress are available.

Michigan's other arguments relating to retroactive ratemaking and the status of interruptible customers have been raised previously in the Order No. 500 proceedings and need not be discussed again here. Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol, Order No. 500, 52 FR 30334 and 52 FR 35,539, FERC Stats. & Regs. ¶ 30,761 (1987); *United Gas Pipe Line Co.* 41 FERC ¶ 61,381 (1987), *reh denied*, 42 FERC ¶ 61,197 (1988).

For the reasons discussed above, the Commission denies the requests for rehearing filed on January 9, 1989, by CNG Transmission Corporation, Rochester Gas and Electric Corporation and Connecticut Natural Gas Corporation, United Distribution Companies, and the State of Michigan and the Michigan Public Service.

By the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 89-3947 Filed 2-17-89; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 172, 182, and 184

[Docket No. 78N-0349]

Certain Glycerides; Affirmation of GrAS Status

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is affirming that the use of mono- and diglycerides, diacetyl tartaric acid esters of mono- and diglycerides, monosodium phosphate derivatives of mono- and diglycerides, glyceryl monostearate, glyceryl monooleate, triacetin (glyceryl triacetate), and tributyrin (glyceryl tributyrate) as direct human food ingredients is generally recognized as safe (GRAS). The safety of these ingredients has been evaluated under the comprehensive safety review conducted by the agency.

DATES: Effective March 23, 1989. The Director of the Federal Register approves the incorporation by reference of certain publications in 21 CFR 184.1101(b), 184.1505(b), 184.1901(b), and 184.1903(b); effective March 23, 1989.

FOR FURTHER INFORMATION CONTACT: Vir D. Anand, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In the Federal Register of February 8, 1983 (48 FR 5751), FDA published a proposal to affirm that mono- and diglycerides, diacetyl tartaric acid esters of mono- and diglycerides, monosodium phosphate derivatives of mono- and diglycerides, glyceryl monostearate, glyceryl monooleate, triacetin (glyceryl triacetate), and tributyrin (glyceryl tributyrate) and GRAS for use as direct human food ingredients. FDA published this proposal in accordance with its announced review of the safety of GRAS and prior-sanctioned food ingredients.

In accordance with § 170.35 (21 CFR 170.35), copies of the scientific literature review and the report of the Select Committee on GRAS Substances (the Select Committee) on glycerin and glycerides have been made available for public review in the Dockets Management Branch (HFA-305), Food and Drug Administration, Room 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday. Copies of these documents are also available for public purchase from the National Technical Information Service, as announced in the proposal.

In addition to proposing to affirm the GRAS status of mono- and diglycerides, diacetyl tartaric acid esters of mono- and diglycerides, monosodium phosphate derivatives of mono- and diglycerides, glyceryl monostearate, glyceryl monooleate, triacetin, and tributyrin, FDA gave public notice that it was unaware of any prior-sanctioned food uses for these ingredients other

than the proposed conditions of use. Persons asserting additional or extended uses in accordance with approvals granted by the U.S. Department of Agriculture or FDA before September 6, 1958, were given notice to submit proof of those sanctions so that the safety of any prior-sanctioned uses could be determined. That notice was also an opportunity to have prior-sanctioned uses of these ingredients recognized by the issuance of an appropriate regulation under Part 181—Prior-Sanctioned Food Ingredients (21 CFR Part 181), or affirmed as GRAS under Part 184 or 186 (21 CFR Part 184 or 186), as appropriate. FDA also gave notice that failure to submit proof of an applicable prior sanction in response to the proposal would constitute a waiver of the right to assert that sanction at any future time.

No reports of prior-sanctioned uses for mono- and diglycerides, diacetyl tartaric acid esters of mono- and diglycerides, monosodium phosphate derivatives of mono- and diglycerides, glyceryl monostearate, glyceryl monooleate, triacetin, and tributyrin were submitted in response to the proposal. Therefore, in accordance with the proposal, any right to assert a prior sanction for the use of these ingredients under conditions different from those set forth in this final rule has been waived.

FDA received three comments in response to the proposed rule. A summary of these comments and the agency's responses follow:

1. One comment requested that proposed § 184.1101 *Diacetyl tartaric acid esters of mono- and diglycerides* be amended by inserting, in parenthesis, the acronym "DATEM" immediately following the title and after the name of the ingredient where it appears in the first section of paragraph (a) of the regulation. The comment stated that the long chemical name by which the ingredient is described in the regulation places a burden on food manufacturers who must label their products with this name. The comment requested that the acronym "DATEM" be incorporated in the final rule to permit public exposure over a period of time and to eventually lead to acceptance of the acronym as the common or usual name for this ingredient.

The agency agrees that an acronym could be used in combination with the name of the ingredient, and that the acronym could become the common or usual name of that ingredient. The agency initially believed that the proposed introduction of the acronym "DATEM" as a synonym for diacetyl tartaric acid esters of mono- and

diglycerides would be appropriate. The agency finds, however, that this use of the acronym "DATEM" could cause confusion with the use of this term in Europe, where it stands for a wide variety of mixed esters (mono- and diglycerides of acetic acid and tartaric acid). This, the agency is rejecting this request. FDA believes that an alternative acronym may be appropriate. Any interested person may petition FDA to adopt an alternative acronym.

2. The second comment stated that diacetyl tartaric acid esters of mono- and diglycerides are used as emulsifiers in nonalcoholic beverages, as defined in § 170.3(n)(3), at levels up to 200 parts per million. The comment requested that the proposed GRAS affirmation regulation for this ingredient be amended to explicitly authorize this use.

FDA has considered the likely increase in exposure to diacetyl tartaric acid esters of mono- and diglycerides resulting from its use as an emulsifier in nonalcoholic beverages. The agency concludes that this additional use of diacetyl tartaric acid esters of mono- and diglycerides is supported by data from the review and is safe. Therefore, FDA is affirming this use as GRAS.

3. The third comment, from a trade association, stated that it had submitted information to the National Academy of Sciences/National Research Council (NAS/NRC) on the use of mono- and diglycerides and triacetin as formulation aids, and on the use of glyceryl monooleate as a flavoring agent, in chewing gum products. The association requested that the proposed regulations for these ingredients be amended in the final rule to authorize these uses in chewing gum products.

FDA has carefully considered this comment in the light of the safety data that have been accumulated for the GRAS review of these substances. The agency concludes that adequate safety data exist to assure that these ingredients may be safely used in chewing gum products as requested by the comment. Therefore, the agency has amended the final rule to include the requested uses to glyceryl monooleate, mono- and diglycerides, and triacetin in chewing gum products.

FDA is also modifying the proposed descriptions for glyceryl monooleate (§ 184.1323) and glyceryl monostearate (§ 184.1324) to make clear that these ingredients are mixture with other glyceryl esters of fatty acids that are present in commercial oleic acid and stearic acid, respectively.

In the proposal, FDA stated that it would work with the Committee on Food Chemicals Codex of the National

Academy of Sciences to develop acceptable specifications for glyceryl monooleate, glyceryl monostearate, and monosodium phosphate derivatives of mono- and diglycerides and would incorporate those specifications into the regulations when they were developed. To date, however, work on the specifications is still incomplete. Until the specifications are developed, these ingredients for direct food uses must comply with the descriptions in their respective regulations and be of food-grade purity (21 CFR 170.30(h)(1) and 182.1(b)(3)).

The agency has previously considered the environmental effects of this rule as announced in the proposed rule (February 8, 1983; 48 FR 5751). No new information or comments have been received that would affect the agency's previous determination that there is no significant impact on the human environment and that an environmental impact statement is not required.

In accordance with the Regulatory Flexibility Act, the agency previously considered the potential effects that this rule would have on small entities, including small businesses. In accordance with section 605(b) of the Regulatory Flexibility Act, the agency has determined that no significant impact on a substantial number of small entities would derive from this action. FDA has not received any new information or comments that would alter its previous determination.

In accordance with Executive Order 12291, FDA has previously analyzed the potential economic effects of this final rule. As announced in the proposal, the agency has determined that the rule is not a major rule as defined by the Order. The agency has not received any new information or comments that would alter its previous determination.

The agency's findings of no major economic impact and no significant impact on a substantial number of small entities, and the evidence supporting these findings, are contained in a threshold assessment which may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects

21 CFR Part 172

Food additives, Reporting and recordkeeping requirements.

21 CFR Part 182

Food ingredients, Food packaging, Spices and flavorings.

21 CFR Part 184

Food ingredients, Incorporation by reference.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, Parts 172, 182, and 184 are amended as follows:

PART 172—FOOD ADDITIVES PERMITTED FOR DIRECT ADDITION TO FOOD FOR HUMAN CONSUMPTION

1. The authority citation for 21 CFR Part 172 continues to read as follows:

Authority: Secs. 201(s), 409, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348); 21 CFR 5.10 and 5.61.

§ 172.515 [Amended]

2. Section 172.515 *Synthetic flavoring substances and adjuvants* is amended in paragraph (b) by removing the entry for "Glyceryl monooleate" from the list of substances.

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

3. The authority citation for 21 CFR Part 182 continues to read as follows:

Authority: Secs. 201(s), 402, 409, 701, 52 Stat. 1046-1047 as amended, 1055-1056 as amended, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 342, 348, 371); 21 CFR 5.10, 5.61.

§ 182.60 [Amended]

4. Section 182.60 *Synthetic flavoring substances and adjuvants* is amended by removing the entry for "Glycerol (glyceryl) tributyrates (tributyrin, butyrin)."

§ 182.90 [Amended]

5. Section 182.90 *Substances migrating to food from paper and paperboard products* is amended by removing the entry for "Mono- and diglycerides from glycerolysis of edible fats and oils."

§§ 182.1324, 182.1901, 182.4101, 182.4505, and 182.4521 [Removed]

6. Section 182.1324 *Glyceryl monostearate*, § 182.1901 *Triacetin*, § 182.4101 *Diacetyl tartaric acid esters of mono- and diglycerides of edible fats or oils, or edible fat-forming acids*, § 182.4505 *Mono- and diglycerides of edible fats or oils, or edible fat-forming acids*, and § 182.4521 *Monosodium phosphate derivatives of mono- and diglycerides of edible fats or oils, or edible fat-forming fatty acids* are removed.

**PART 184—DIRECT FOOD
SUBSTANCES AFFIRMED AS
GENERALLY RECOGNIZED AS SAFE**

7. The authority citation for 21 CFR Part 184 continues to read as follows:

Authority: Secs. 201(s), 402, 409, 701, 52 Stat. 1046–1047 as amended, 1055–1056 as amended, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 342, 348, 371); 21 CFR 5.10, 5.61.

8. New § 184.1101 is added to Subpart B to read as follows:

§ 184.1101 Diacetyl tartaric acid esters of mono- and diglycerides.

(a) Diacetyl tartaric acid esters of mono- and diglycerides are composed of mixed esters of glycerin in which one or more of the hydroxyl groups of glycerin has been esterified by diacetyl tartaric acid and by fatty acids. The ingredient is prepared by the reaction of diacetyl tartaric anhydride with mono- and diglycerides that are derived from edible sources.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d. Ed. (1981), pp. 98–99, which is incorporated by reference in accordance with 5 U.S.C. 552(a). Copies are available from the National Academy Press, 2101 Constitution Avenue NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L Street NW., Washington, DC 20005.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used in food as an emulsifier and emulsifier salt as defined in § 170.3(o)(8) of this chapter and a flavoring agent and adjuvant as defined in § 170.3(o)(12) of this chapter.

(2) The ingredient is used in the following foods at levels not to exceed current good manufacturing practice: baked goods and baking mixes as defined in § 170.3(n)(1) of this chapter; nonalcoholic beverages as defined in § 170.3(n)(3) of this chapter; confections and frostings as defined in § 170.3(n)(9) of this chapter; dairy product analogs as defined in § 170.3(n)(10) of this chapter; and fats and oils as defined in § 170.3(n)(12) of this chapter.

(d) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

9. New § 184.1323 is added to Subpart B to read as follows:

§ 184.1323 Glyceryl monooleate.

(a) Glyceryl monooleate is prepared by esterification of commercial oleic acid that is derived either from edible sources or from tall oil fatty acids meeting the requirements of § 172.862 of this chapter. It contains glyceryl monooleate ($C_{21}H_{40}O_4$, CAS Reg. No. 25496–72–4) and glyceryl esters of fatty acids present in commercial oleic acid.

(b) FDA is developing food-grade specifications for glyceryl monooleate in cooperation with the National Academy of Sciences. In the interim, this ingredient must be of a purity suitable for its intended use.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as a flavoring agent and adjuvant as defined in § 170.3(o)(12) of this chapter and as a solvent and vehicle as defined in § 170.3(o)(27) of this chapter.

(2) The ingredient is used in the following foods at levels not to exceed current good manufacturing practice: baked goods and baking mixes as defined in § 170.3(n)(1) of this chapter; nonalcoholic beverages and beverage bases as defined in § 170.3(n)(3) of this chapter; chewing gum as defined in § 170.3(n)(6) of this chapter; and meat products as defined in § 170.3(n)(29) of this chapter.

(d) Prior sanctions for this ingredient different from the use established in this section do not exist or have been waived.

10. New § 184.1324 is added to Subpart B to read as follows:

§ 184.1324 Glyceryl monostearate.

(a) Glyceryl monostearate, also known as monostearin, is a mixture of variable proportions of glyceryl monostearate ($C_{21}H_{42}O_4$, CAS Reg. No. 31568–31–1), glyceryl monopalmitate ($C_{19}H_{38}O_4$, CAS Reg. No. 26657–96–5) and glyceryl esters of fatty acids present in commercial stearic acid. Glyceryl monostearate is prepared by glycerolysis of certain fats or oils that are derived from edible sources or by esterification, with glycerin, of stearic acid that is derived from edible sources.

(b) FDA is developing food-grade specifications for glyceryl monostearate in cooperation with the National Academy of Sciences. In the interim, this ingredient must be of a purity suitable for its intended use.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice.

(d) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

11. New § 184.1505 is added to Subpart B to read as follows:

§ 184.1505 Mono- and diglycerides.

(a) Mono- and diglycerides consist of a mixture of glyceryl mono- and diesters, and minor amounts of triesters, that are prepared from fats or oils or fat-forming acids that are derived from edible sources. The most prevalent fatty acids include lauric, linoleic, myristic, oleic, palmitic, and stearic. Mono- and diglycerides are manufactured by the reaction of glycerin with fatty acids or the reaction of glycerin with triglycerides in the presence of an alkaline catalyst. The products are further purified to obtain a mixture of glycerides, free fatty acids, and free glycerin that contains at least 90 percent-by-weight glycerides.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 201, which is incorporated by reference in accordance with 5 U.S.C. 552(a). Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20005.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used in food as a dough strengthener as defined in § 170.3(o)(6) of this chapter; an emulsifier and emulsifier salt as defined in § 170.3(o)(8) of this chapter; a flavoring agent and adjuvant as defined in § 170.3(o)(12) of this chapter; a formulation aid as defined in § 170.3(o)(14) of this chapter; a lubricant and release agent as defined in § 170.3(o)(18) of this chapter; a solvent and vehicle as defined in § 170.3(o)(27) of this chapter; a stabilizer and thickener as defined in § 170.3(o)(28) of this chapter; a surface-active agent as defined in § 170.3(o)(29) of this chapter; a surface-finishing agent as defined in § 170.3(o)(30) of this chapter; and a

texturizer as defined in § 170.3(o)(32) of this chapter.

(2) The ingredient is used in food at levels not to exceed current good manufacturing practice.

(d) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

12. New § 184.1521 is added to Subpart B to read as follows:

§ 184.1521 Monosodium phosphate derivatives of mono- and diglycerides.

(a) Monosodium phosphate derivatives of mono- and diglycerides are composed of glyceride derivatives formed by reacting mono- and diglycerides that are derived from edible sources with phosphorus pentoxide (tetraphosphorus decoxide) followed by neutralization with sodium carbonate.

(b) FDA is developing food-grade specifications for monosodium phosphate mono- and diglycerides in cooperation with the National Academy of Sciences. In the interim, this ingredient must be of a purity suitable for its intended use.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used in food as an emulsifier and emulsifier salt as defined in § 170.3(o)(8) of this chapter, a lubricant and release agent as defined in § 170.3(o)(18) of this chapter, and as a surface-active agent as defined in § 170.3(o)(29) of this chapter.

(2) The ingredient is used in the following foods at levels not to exceed current good manufacturing practice: dairy product analogs as defined in § 170.3(n)(10) of this chapter and soft candy as defined in § 170.3(n)(38) of this chapter.

(d) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

13. New § 184.1901 is added to Subpart B to read as follows:

§ 184.1901 Triacetin.

(a) Triacetin ($C_9H_{14}O_6$, CAS Reg. No. 102-76-1), also known as 1,2,3-propanetriol triacetate or glyceryl triacetate, is the triester of glycerin and acetic acid. Triacetin can be prepared by heating glycerin with acetic anhydride alone or in the presence of finely divided potassium hydroxide

sulfate. It can also be prepared by the reaction of oxygen with a liquid-phase mixture of allyl acetate and acetic acid using a bromide salt as a catalyst.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), pp. 337-338, as revised by the First Supplement to the 3d Ed., which is incorporated by reference in accordance with 5 U.S.C. 552(a). Copies are available from the National Academy Press, 2102 Constitution Ave., NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St., NW., Washington, DC 20005.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used in food as a flavoring agent and adjuvant as defined in § 170.3(o)(12) of this chapter; a formulation aid as defined in § 170.3(o)(14) of this chapter; and humectant as defined in § 170.3(o)(16) of this chapter; and a solvent and vehicle as defined in § 170.3(o)(27) of this chapter.

(2) The ingredient is used in the following foods at levels not to exceed current good manufacturing practice: baked goods and baking mixes as defined in § 170.3(n)(1) of this chapter, alcoholic beverages as defined in § 170.3(n)(2) of this chapter; nonalcoholic beverages and beverage bases as defined in § 170.3(n)(3) of this chapter; chewing gum as defined in § 170.3(n)(6) of this chapter; confections and frostings as defined in § 170.3(n)(9) of this chapter; frozen dairy dessert and mixes as defined in § 170.3(n)(20) of this chapter; gelatins, puddings, and fillings as defined in § 170.3(n)(22) of this chapter; hard candy as defined in § 170.3(n)(25) of this chapter; and soft candy as defined in § 170.3(n)(38) of this chapter.

(d) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

14. New § 184.1903 is added to Subpart B to read as follows:

§ 184.1903 Tributyrin.

(a) Tributyrin ($C_{15}H_{26}O_6$, CAS Reg. No. 60-01-5), also known as butyrin or glyceryl tributyrate, is the triester of glycerin and butyric acid. It is prepared by esterification of glycerin with excess butyric acid.

(b) The ingredient meets the specification of the Food Chemicals Codex, 3d Ed. (1981), p. 416, which is incorporated by reference in accordance with 5 U.S.C. 552(a). Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St., NW., Washington, DC 20005.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used in food as a flavoring agent and adjuvant as defined in § 170.3(o)(12) of this chapter.

(2) The ingredient is used in the following foods at levels not to exceed current good manufacturing practice: baked goods as defined in § 170.3(n)(1) of this chapter; alcoholic beverages as defined in § 170.3(n)(2) of this chapter; nonalcoholic beverages as defined in § 170.3(n)(3) of this chapter; fats and oils as defined in § 170.3(n)(12) of this chapter; frozen dairy desserts and mixes as defined in § 170.3(n)(20) of this chapter; gelatins, puddings and fillings as defined in § 170.3(n)(22) of this chapter; and soft candy as defined in § 170.3(n)(39) of this chapter.

(d) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

Dated: February 13, 1989.

Fred R. Shank,
Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 89-3935 Filed 2-17-89; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 179

[Docket No. 86F-0418]

Irradiation in the Production, Processing, and Handling of Foods

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of ethylene-vinyl acetate copolymers as a packaging material intended to contact food during irradiation. This action is in response to a petition filed by the Cryovac Division, W.R. Grace & Co.

DATES: Effective February 21, 1989; written objections and requests for a hearing by March 23, 1989.

ADDRESS: Written objections to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Vir Anand, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In a notice published in the *Federal Register* of November 21, 1986 (51 FR 42139), FDA announced that a food additive petition (FAP 7B3968) had been filed by the Cryovac Division, W.R. Grace & Co., P.O. Box 464, Duncan, SC 29334-0464, proposing that § 179.45 *Packaging materials for use during irradiation of prepackaged foods* (21 CFR 179.45) be amended to provide for the safe use of ethylene-vinyl acetate copolymers, complying with § 177.1350 *Ethylene-vinyl acetate copolymers* (21 CFR 177.1350), as a packaging material intended to contact food during irradiation.

FDA has evaluated data in the petition and other relevant material. The agency concludes that the proposed food additive use is safe, and that § 179.45 should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this regulation may at any time on or before March 23, 1989 file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be

separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 179

Food additives, Food labeling, Food packaging, Irradiation of foods, Radiation protection, Reporting and recordkeeping requirements, Signs and symbols.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director of the Center for Food Safety and Applied Nutrition, Part 179 is amended as follows:

PART 179—IRRADIATION IN THE PRODUCTION, PROCESSING AND HANDLING OF FOOD

1. The authority citation for 21 CFR Part 179 continues to read as follows:

Authority: Secs. 201(s), 409, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348); 21 CFR 5.10; §§ 179.25 and 179.26 also are issued under secs. 402, 403, 703, 704, 52 Stat. 1046-1048 as amended, 1057, 67 Stat. 477 as amended (21 U.S.C. 342, 343, 373, 374); 21 CFR 5.10, 5.11.

2. Section 179.45 is amended by redesignating paragraphs (c) and (d) as paragraphs (d) and (e), respectively, and by adding new paragraph (c) to read as follows:

§ 179.45 *Packaging materials for use during the irradiation of prepackaged foods.*

(c) Ethylene-vinyl acetate copolymers complying with § 177.1350 of this

chapter. The ethylene-vinyl acetate packaging materials may be subjected to a dose of radiation, not to exceed 30 kilogray (3 megarads), incidental to the use of gamma, electron beam, or X-radiation in the radiation treatment of packaged foods.

* * * * *

Dated: February 13, 1989.

Fred R. Shank,
Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 89-3864 Filed 2-17-89; 8:45am]

BILLING CODE 4160-01-M

21 CFR Part 510

Animal Drugs, Feeds, and Related Products; Change of Sponsor

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to remove Vet Labs Limited, Inc., from the list of sponsors of approved new animal drug applications (NADA's).

EFFECTIVE DATE: February 21, 1989.

FOR FURTHER INFORMATION CONTACT: John R. Markus, Center for Veterinary Medicine (HFV-142), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3442.

SUPPLEMENTARY INFORMATION: Vet Labs Limited, Inc., 12340 Santa Fe Dr., Lenexa, KS 66215, transferred several NADA's to Vet Labs, Inc. (53 FR 32610; August 26, 1988), and another NADA to Chemdex Inc. (53 FR 40728; October 18, 1988). As a result of these transfers, Vet Labs Limited, Inc., is no longer the sponsor of any approved NADA's.

The agency is amending 21 CFR 510.600(c) (1) and (2) to remove the sponsor listings for "Vet Labs Limited, Inc."

List of Subjects in 21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, Part 510 is amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR Part 510 continues to read as follows:

Authority: Secs. 512, 701(a) (21 U.S.C. 360b, 371(a)); 21 CFR 5.10 and 5.83.

§ 510.600 [Amended]

2. Section 510.600 *Names, addresses, and drug labeler codes of sponsors of approved applications* is amended in paragraph (c)(1) by removing the entry for "Vet Labs Limited, Inc.," and in paragraph (c)(2) by removing the entry for "054016."

Dated: February 13, 1988.

Robert C. Livingston,
Deputy Director, Office of New Animal Drug
Evaluation, Center for Veterinary Medicine.
[FR Doc. 89-3866 Filed 2-17-89; 8:45 am]
BILLING CODE 4160-01-M

21 CFR Part 522

**Implantation or Injectable Dosage
Form New Animal Drugs Not Subject
to Certification; Progesterone and
Estradiol Benzoate**

AGENCY: Food and Drug Administration.
ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Syntex Agribusiness providing that the use of progesterone and estradiol benzoate in combination in subcutaneous ear implants for growth promotion and feed efficiency no longer be labeled "not for use in veal calves." However, the product is still limited to use in suckling beef calves greater than 45 days of age. FDA is amending the regulation to reflect the revised labeling.

EFFECTIVE DATE: February 21, 1989.

FOR FURTHER INFORMATION CONTACT: Jack C. Taylor, Center for Veterinary Medicine (HFV-126), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5247.

SUPPLEMENTARY INFORMATION: Syntex Agribusiness, Inc., 3401 Hillview Ave., Palo Alto, CA 94304, is sponsor of NADA 9-576 which provides for use of Synovex® C (progesterone and estradiol benzoate) in an ear implant for growth promotion and feed efficiency in suckling beef calves and steers. The firm filed a supplemental NADA providing for removal of the limitation "not for use in veal calves." However, use in suckling beef calves is still limited to animals at least 45 days old and for steers weighing 400 pounds or more. The supplement is approved and the regulation in 21 CFR 522.1940(d)(1)(iii) is amended accordingly.

Approval of this supplement is an administrative action which does not require any additional data and therefore does not require a freedom of

information summary. In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information is not required for this action.

List of Subjects in 21 CFR Part 522**Animal drugs.**

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, Part 522 is amended as follows:

**PART 522—IMPLANTATION OR
INJECTABLE DOSAGE FORM NEW
ANIMAL DRUGS NOT SUBJECT TO
CERTIFICATION**

1. The authority citation for 21 CFR Part 522 continues to read as follows:

Authority: Sec. 512(j), 82 Stat. 347 (21 U.S.C. 3606(j)); 21 CFR 5.10 and 5.83.

§ 522.1940 [Amended]

2. Section 522.1940 *Progesterone and estradiol benzoate in combination* is amended in paragraph (d)(1)(iii) by removing the phrase "in veal calves or".

Dated: February 9, 1989.

Richard H. Teske,
Deputy Director, Center for Veterinary
Medicine.
[FR Doc. 89-3936 Filed 2-17-89; 8:45 am]
BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

**Office of Surface Mining Reclamation
and Enforcement**

30 CFR Part 935**Ohio Regulatory Program**

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSMRE), Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: OSMRE is announcing the approval, with certain reservations, of Program Amendment Number 28 to the Ohio regulatory program (hereinafter referred to as the Ohio program) approved under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment consists of several revisions to the State rules concerning husbandry practices and revegetation success standards. It incorporates the additional flexibility afforded by recent revisions to the corresponding Federal rules and is

intended to clarify the circumstances under which certain practices will be considered normal and non-augmentative.

EFFECTIVE DATE: February 21, 1989.

FOR FURTHER INFORMATION CONTACT:

Ms. Nina Rose Hatfield, Director,
Columbus Field Office, Office of Surface
Mining Reclamation and Enforcement,
Room 202, 2242 South Hamilton Road,
Columbus, Ohio 43232; Telephone: (614)
866-0578.

SUPPLEMENTARY INFORMATION:

- I. Background on the Ohio Program
- II. Submission of Amendment
- III. Director's Findings
- IV. Summary and Disposition of Comments
- V. Director's Decision
- VI. Procedural Determinations

I. Background on the Ohio Program

On August 16, 1982, the Secretary of the Interior conditionally approved the Ohio program. Information on the general background of the Ohio program submission, including the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval, can be found in the August 10, 1982, *Federal Register* (47 FR 34688). Subsequent actions concerning the conditions of approval and program amendments are identified in 30 CFR 935.11, 935.12, 935.15 and 935.16.

II. Submission of Amendment

By letter dated April 17, 1987 (Administrative Record No. OH-0931), Ohio submitted proposed revisions to the following paragraphs of Rule 13-9-15 of Chapter 1501 of the Ohio Administrative Code (OAC): (A)(1)(a), (F)(8), (F)(8)(e)(i), (F)(8)(f)(i), (F)(9), (F)(10), (F)(11), and (F)(12). The minor wording changes in paragraphs (F)(8) and (F)(8)(e)(i) are nonsubstantive and editorial in nature. The other proposed changes are briefly summarized below:

- 1. *OAC 1501:13-9-15(A)(1)(a)*: The definition of "countable tree" is revised to mean a tree or shrub in place for two growing seasons rather than for five years.
- 2. *OAC 1501:13-9-15(F)(8)(f)(i)*: This paragraph has been rewritten to increase the number of countable trees required for Phase III bond release from 400 per acre to 450 per acre to specify that 80 percent of the countable trees must have been in place for at least three years.
- 3. *OAC 1501:13-9-15 (F)(9), (F)(10), and (F)(11)*: The term "herbaceous species" has been substituted for the phrase "species of grasses and legumes."

4. *OAC 1501:13-9-15(F)(12)*: This paragraph has been rewritten to clarify and expand the types of locally accepted practices which will not be considered augmentative and which will not restart the five-year period of extended responsibility. Under the revised rule, the repair of rills and gullies will not be augmentative on cropland and on areas for which the approved postmining land use requires woody plants as the primary vegetation. Also, the replanting of trees as a reinforcement measure will not be augmentative on areas where the postmining land use involves woody plants.

OSMRE announced receipt of the proposed amendment in the July 7, 1987, *Federal Register* (52 FR 25387), and, in the same notice, opened the public comment period and provided opportunity for a public hearing on the adequacy of the proposed amendment.

On September 21, 1987 (Administrative Record No. OH-0981), OSMRE requested additional information from Ohio concerning the nature of the cultural practices described in *OAC 1501:13-9-15(F)(12)*. Ohio responded to this request by letter dated November 2, 1987 (Administrative Record No. OH-0991). OSMRE subsequently requested further clarification on December 18, 1987 (Administrative Record No. OH-1086), which Ohio provided in part on April 18, 1988 (Administrative Record No. OH-1026). On July 6, 1988, Ohio further revised this information in a document dated June 14, 1988 (Administrative Record No. OH-1070).

III. Director's Findings

Set forth below, pursuant to SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are the Director's findings concerning the proposed amendment to the Ohio program.

1. *Revegetation Success Standards for Land Uses Involving Woody Plants*

(a) *OAC 1501:13-9-15(A)(1)(a)*. Ohio is revising its definition of "countable tree" to mean a tree or shrub in place for two growing seasons, rather than five years as in the previous rule. The revised definition is substantively identical to that portion of 30 CFR 816/817.116(b)(3)(ii), as revised on September 7, 1988 (53 FR 34643), which specifies that no tree or shrub in place for fewer than two growing seasons shall be counted in determining revegetation success.

This revision will allow limited reinforcement plantings to occur during the revegetation responsibility period without restarting that period. The Ohio

administrative record, which has been included in the administrative record of this Federal rulemaking, documents that the replanting of trees during the first two years following the initial planting is a normal husbandry practice rather than an augmentative practice prohibited by section 515(b)(2) of SMCRA. Reinforcement planting of this nature is a standard practice necessary to maintain the desired stocking level and compensate for the high initial mortality normally experienced by newly planted trees. Since woody plant mortality occurs primarily in the first two years following planting and since *OAC 1501:13-9-15(F)(8)(f)(i)* requires that 80 percent of the countable trees be in place at least three years, replanting of this nature would not interfere with the State's ability to determine attainment of permanent vegetative success on the site. Furthermore, in the administrative record accompanying the April 17, 1987, submission (Federal Administrative Record No. OH-0931), Ohio states that it will interpret the phrase "two growing seasons" as meaning "two years" when determining whether a woody plant is countable under the revised definition.

Therefore, the Director finds that the State's revised definition of "countable tree" at *OAC 1501:13-9-15(A)(1)(a)* is no less effective than the corresponding requirements of 30 CFR 816/817.116(b)(3)(ii).

(b) *OAC 1501:13-9-15(F)(8)(f)(i)*. Ohio is revising this rule to increase the stocking required for Phase III bond release from 400 to 450 countable trees per acre. The revised number is 75 percent of the stocking required for Phase II bond release and is in keeping with the 75 percent success standard for forest plantations established under the regulations implementing the Forest Tax Law of Ohio (sections 5713.22 through 5713.26 of the Ohio Revised Code). The corresponding Federal rules at 30 CFR 800.40 and 816/817.116 lack a counterpart provision; however, the Director finds that this modest increase in the required stocking represents good silvicultural practice and is not inconsistent with any Federal requirement. The revised rule is therefore no less effective than the Federal rules.

Ohio also is revising this rule to require that, at the time of Phase III bond release, at least 80 percent of the countable trees have been in place at least three years. As discussed in Finding 1(a), Ohio has adequately documented that, in a plantation, trees which survive more than two years and are in a healthy state can be considered established. The corresponding Federal

rule at 30 CFR 816/817.116(b)(3)(ii), as revised on September 7, 1988, 53 FR 34643, requires that, at the time of final bond release, at least 80 percent of the trees and shrubs used to determine success have been in place at least 60 percent of the applicable minimum period of responsibility. In Ohio, the applicable minimum period is five years. Since the revision proposed by Ohio would require that 80 percent of the countable trees be in place at least three years (60 percent of five years), the Director finds that the revised rule is no less effective than its Federal counterparts.

2. *Husbandry Practices (OAC 1501:13-9-15(F)(12))*

(a) *Background*. The Federal regulations at 30 CFR 816/817.116(c)(4) authorize the regulatory authority to approve the use of selective husbandry practices, without extending the period of responsibility for revegetation success and bond liability if such practices are normal and can be expected to continue as part of the postmining land use or if discontinuance of the practices after the liability period expires will not reduce the probability of permanent revegetation success. The regulatory authority must obtain prior approval of such practices from OSMRE in accordance with 30 CFR 732.17.

(b) *Seeding, fertilization and irrigation*. On April 17, 1987, Ohio proposed to amend its rules by reformatting the provision that, for cropland or pastureland, seeding, fertilizing, irrigating and other locally accepted cultural practices will not be considered augmentative when the cultural practice and the rate of application is an accepted local practice that can be expected to continue following bond release.

The preamble to the corresponding Federal rules at 30 CFR 816/817.116(c)(4) further states that "seeding, fertilization, or irrigation performed at levels that do not exceed those normally applied maintaining comparable unmined land in the surrounding area would not be considered prohibited augmentative practices." Although the State provision is worded somewhat differently and does not expressly incorporate the "comparable unmined land" standard, the Director expects that it will be interpreted and applied in the same fashion. Specifically, the Director interprets the term "accepted local practice" as used in the Ohio rule to mean practices and rates prescribed for general use in the agronomy guides prepared and distributed by the Cooperative Extension Service or

organizations with similar expertise, or those practices and rates in customary use on all comparable agricultural land in the surrounding area. Practices and rates specifically prescribed for or in customary use on severely disturbed sites such as mined areas could not be used during the responsibility period without restarting that period. For example, operators would not be allowed to fertilize at rates in excess of those used on similar unmined lands under similar management without restarting the liability period, even if soil tests indicate that the mined land requires a higher rate of fertilization to achieve yields comparable to those of the unmined land.

With respect to reseeded, in a July 14, 1988, policy statement submitted by letter dated July 6, 1988 (Administrative Record No. OH-1070), Ohio further clarifies that reseeded necessitated by the use of nonviable seed, planting in inappropriate weather or seasons, or inadequate seedbed preparation will be considered augmentative. Reseeding to maintain a legume component in pastureland or hayland will not, since legumes are typically short-lived and must be periodically reseeded as a standard management practice. This listing is illustrative only and should not be interpreted as including all circumstances in which reseeded will or will not be considered augmentative.

(c) *Unspecified cultural practices.* As noted in the preceding finding, the revised Ohio rule continues to consider unspecified "other locally accepted practices" as being non-augmentative. For practices not specifically approved in the existing State program, the preamble to the Federal rule clarifies that the regulatory authority, on a practice-by-practice basis, must demonstrate that the practice is the usual or expected state, form, amount or degree of management performed habitually or customarily to prevent exploitation, destruction or neglect of the resource and maintain a prescribed level of use or productivity on similar unmined lands. In addition, the regulatory authority must demonstrate that the proposed practice is not an augmentative practice prohibited by section 515(b)(20) of SMCRA. Therefore, the Director finds that the portion of the Ohio rule allowing the use of unspecified "other locally accepted practices" is inconsistent with 30 CFR 816/817.116(c)(4), which requires that each specific practice be approved through the State program amendment process.

(d) *Repair of rills and gullies.* Ohio also is proposing to designate the repair

of rills and gullies on cropland and areas planted to woody vegetation as a non-augmentative cultural practice, and has submitted an administrative record in support of this provision (Federal Administrative Record Nos. OH-0931, April 17, 1987, and OH-0991, November 2, 1987). In comments included as part of OH-0991, the SCS State Conservationist for Ohio concurs that repair of rills and gullies is a normal practice when they occur, but he further states that, under good management, rills and gullies should not be an annual occurrence. If they are, the land management needs to be changed. In response, Ohio notes that it expects and requires the operator to use proper management techniques to avoid and control erosion, but that when rills and gullies occur despite use of such techniques, their repair should be a normal husbandry practice.

The Director agrees that, based on the information submitted by Ohio, the repair of an occasional rill or gully would not be an augmentative practice nor would the repair of minor erosional features on cropland through normal tillage practices be considered augmentative. "Minor erosional features" refers to those rills that, in the absence of tillage, would be rapidly stabilized by normal vegetative growth.

However, he also agrees with the SCS that persistent or recurrent erosion in excess of a generally accepted level indicates that the reclamation effort has not fully met the standards for success. Repetitive repairs of recurrent rills and gullies cannot be considered a normal husbandry practice under 30 CFR 816/817.116(c)(4) since failure to continue such repairs after bond release could substantially decrease the land's capability to support its premining or approved postmining uses. All rills and gullies must be stabilized prior to final bond release to avoid this outcome. Therefore, he is requiring that Ohio further amend this provision to clarify that its applicability will be limited to minor erosional features on lands on which proper erosion control practices are in use and to non-recurrent rills and gullies affecting only small areas.

(e) *Reinforcement planting.* The final practice which Ohio proposes to designate as non-augmentative is the replanting of trees as a reinforcement measure in areas for which the postmining land use requires woody plants as the primary vegetation. As discussed in Finding 1, the administrative record submitted by Ohio supports this proposal. Furthermore, the provisions of OAC 1501:13-9-15 (A)(1)(a) and (F)(8)(f)(i), which specify that no tree or shrub in place less than

two growing seasons may be considered a countable tree and that at least 80 percent of all countable trees be in place at least three years, adequately limit the extent to which reinforcement planting may be considered non-augmentative. Therefore, the Director finds this practice consistent with the corresponding Federal rule at 30 CFR 816/817.116(c)(4) as revised on September 7, 1988 (53 FR 34643).

3. Miscellaneous Revisions.

(a) *OAC 1501:13-9-15 (F)(8) and (F)(8)(e)(i).* The minor wording revisions in these sections are strictly editorial and nonsubstantive in nature. Therefore, the Director finds that these changes will not render the revised rules less effective than their Federal counterparts in 30 CFR 816/817.116.

(b) *OAC 1501:13-9-15(F)(9), (10), and (11).* Since OAC 1501:13-9-15(A)(3) defines the term "herbaceous species" as "grasses and non-woody legumes," the Director finds that the substitution of "herbaceous species" for the phrase "species of grasses and legumes" in OAC 1501:13-9-15(F)(9), (10) and (11) is a nonsubstantive editorial change that will not render these revised rules less effective than their Federal counterparts at 30 CFR 816/817.116(b)(3)(i) and (b)(4).

IV. Summary and Disposition of Comments

Public Comments

The public comment period announced in the July 7, 1987, *Federal Register* (52 FR 25387) ended August 6, 1987. No public comments were received. The scheduled public hearing was not held as no one requested an opportunity to provide testimony.

Agency Comments

Pursuant to section 503(b) of SMCRA and the implementing regulations at 30 CFR 732.17(h)(11)(i), comments were solicited from various Federal agencies with an actual or potential interest in the Ohio program. The Soil Conservation Service and Farmer's Home Administration of the U.S. Department of Agriculture supported the amendment. No other comments were received.

V. Director's Decision

Based on the findings discussed above, the Director is approving Ohio Program Amendment No. 28 as submitted on April 17, 1987, with the exception of the provision discussed in Finding 2(c), as interpreted by the letters and policy statements submitted on November 2, 1987, and July 6, 1988. As discussed in Finding 2(d), he also is

requiring that Ohio further amend its program to clarify the circumstances under which the repair of rills and gullies may be considered a non-augmentative practice. As provided by 30 CFR 732.17(a) and (g), any provision not approved by the Director may not be implemented as part of the Ohio program. The Director is amending 30 CFR Part 935 to implement this decision.

This final rule is being made effective immediately to expedite the State program amendment process and to encourage States to conform their programs with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

VI. Procedural Determinations

National Environmental Policy Act

The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

Executive Order 12291 and the Regulatory Flexibility Act

On July 12, 1984, the Office of Management and Budget (OMB) granted OSMRE an exemption from Sections 3, 4, and 7 and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a regulatory impact analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule will not impose any new requirements; rather, it will ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

Paperwork Reduction Act

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 935

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Date: February 15, 1989.

Robert E. Boldt,

Deputy Director, Office of Surface Mining Reclamation and Enforcement.

For the reasons set out in the preamble, Title 30, Chapter VII, Subchapter of the Code of Federal

Regulations is amended as set forth below:

PART 935—OHIO

1. The authority citation for Part 935 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. In § 935.12, a new paragraph (c) is added to read as follows:

§ 935.12 State regulatory program provisions and amendments disapproved.

* * * * *

(c) In OAC 1501:13-9-15(F)(12)(a), as submitted to OSMRE on April 17, 1987, the phrase "and other locally accepted practices" is disapproved.

3. In § 935.15, a new paragraph (jj) is added to read as follows:

§ 935.15 Approval of regulatory program amendments.

* * * * *

(jj) With the exception noted herein and in § 935.12 of this part, the following amendment concerning revegetation success standards and husbandry practices, as submitted to OSMRE on April 17, 1987, and as clarified on November 2, 1987, and July 6, 1988, is approved effective February 21, 1989: Revisions to the following paragraphs of Rule 13-9-15 of Chapter 1501 of the Ohio Administrative Code: (A)(1)(a), (F)(8), (F)(8)(e)(i), (F)(8)(f)(i), (F)(9), (F)(10), (F)(11) and (F)(12), except for the phrase "and other locally accepted practices" in paragraph (F)(12)(a).

4. In § 935.16 new paragraphs (c) and (d) are added to read as follows:

§ 935.16 Required regulatory program amendments.

* * * * *

(c) By August 4, 1989, Ohio shall submit a proposed amendment to OAC 1501:13-9-15(F)(12)(a) to remove the phrase "and other locally accepted practices" or otherwise propose to amend its program to clarify that all normal husbandry practices must be approved by OSMRE pursuant to 30 CFR 732.17.

(d) By August 4, 1989, Ohio shall submit a proposed amendment to OAC 1501:13-0-15(F)(12)(b) or otherwise propose to amend its program to clarify that the repair of rills and gullies will not be universally considered non-augmentative, and that this determination will be made based on the extent of repairs needed and the cause of the erosion.

[FR Doc. 89-3897 Filed 2-17-89; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 45

[DoD Instruction 1336.1]

Certificate of Release or Discharge From Active Duty (DD Form 214/5 Series)

AGENCY: Final rule.

SUMMARY: This document revises the DD Form 214/214WS and Part 45. Form changes include adding a "Home of Record at Time of Entry" block, enlarging and moving the "Reserve obligation Termination Date" block, adding a block to document dental treatment within 90 days of separation and adding a "Name and Address of Nearest Relative" block to help locate Service members who have transferred to the Individual Ready Reserve (IRR). Text changes would authorize certain officials in grade E-5, GS-5 or above to sign the form, specify issuance requirements for reenlisting members clarify potential obligations of retired and IRR members, and clarify certain other administrative matters.

EFFECTIVE DATE: January 6, 1989.

FOR FURTHER INFORMATION CONTACT: Lt. Col. T. Sutherland, Office of the Assistant Secretary of Defense (Force Management and Personnel), the Pentagon, Washington, DC 20301, telephone 202-695-6312.

SUPPLEMENTARY INFORMATION:

List of Subjects in 32 CFR Part 45

Armed forces reserves, Military personnel.

Accordingly, 32 CFR Part 45 is revised as follows:

PART 45—CERTIFICATE OF RELEASE OR DISCHARGE FROM ACTIVE DUTY (DD FORM 214/5 SERIES)

Sec.

45.1 Purpose.

45.2 Applicability and scope.

45.3 Policy and procedures.

45.4 Responsibilities.

Appendix A—DD Form 214.

Appendix B—DD Form 214WS.

Appendix C—DD Form 215.

Appendix D—State Directors of Veterans Affairs.

Authority: 10 U.S.C. 1168 and 972.

§ 45.1 Purpose.

(a) This document revises 32 CFR Part 45.

(b) Prescribes procedures concerning the preparation and distribution of revised DD Form 214 to comport with

the requirements of 10 U.S.C. 1168, 972, and 32 CFR Part 41 and the control and publication of separation program designators (SPDs).

§ 45.2 Applicability and scope.

(a) The provisions of this part apply to the Office of the Secretary of Defense, the Military Services, the Joint Staff, and the Defense Agencies (hereafter referred to as "DoD Components"). The term "Military Services," as used here, refers to the Army, Navy, the Air Force, the Marine Corps and, by agreement with the Department of Transportation, to the Coast Guard.

(b) Its provisions include procedures on the preparation and distribution of DD Forms 214, 214WS, 215 (Appendices A, B, and C) which record and report the transfer or separation of military personnel from a period of active duty. (NOTE: Computer-generated formats are acceptable substitutes provided Assistant Secretary of Defense (Force Management and Personnel) approval is obtained.) DD Forms 214 and 215 (or their substitutes) will provide:

(1) *The Military Services* with a source of information relating to military personnel for administrative purposes, and for making determinations of eligibility for enlistment or reenlistment.

(2) *The Service member* with a brief, clear-cut record of the member's active service with the Armed Forces at the time of transfer, release, or discharge, or when the member changes status or component while on active duty.

(3) *Appropriate governmental agencies* with an authoritative source of information which they require in the administration of Federal and State laws applying to personnel who have been discharged, otherwise released, or transferred to a Reserve component while on active duty.

(c) Its provisions include procedures on the control and distribution of all lists of SPDs.

§ 45.3 Policy and procedures.

(a) Administrative issuance or reissuance of DD Forms 214 and 215.

(1) The DD Form 214 will normally be issued by the command from which the member was separated. In those instances where a DD Form 214 was not issued, the Services concerned may establish procedures for administrative issuance.

(2) The DD Form 214, once issued, will not be reissued except:

(i) When directed by appropriate appellate authority, Executive Order, or by the Secretary concerned.

(ii) When it is determined by the Service concerned that the original DD Form 214 cannot be properly corrected

by issuance of a DD Form 215 or if the correction would require issuance of more than two DD Forms 215.

(iii) When two DD Forms 215 have been issued and an additional correction is required.

(3) Whenever a DD Form 214 is administratively issued or reissued, an appropriate entry stating that fact and the date of such action will be made in Block 18, Remarks, of the DD Form 214 unless the appellate authority, Executive Order, or Secretarial directive specifies otherwise.

(b) The Military Services will ensure that every member (except as limited in paragraph (b)(2) of this section and excluding those listed in paragraph (c) of this section being separated from the Military Services is given a completed DD Form 214 describing relevant data regarding the member's service, and the circumstances of termination. DD Form 214 may also be issued under other circumstances prescribed by the Military Service concerned. A continuation sheet, if required, will be bond paper, and will reference: The DD Form 214 being continued; information from blocks 1 through 4; the appropriate block(s) being continued; the member's signature, date; and the authorizing official's signature. DD Forms 214 are not intended to have any legal effect on termination of the member's service.

(1) *Release or discharge from active service.* (i) The original of DD Form 214 showing separation from a period of active service with a Military Service, including release from a status that is legally determined to be void, will be physically delivered to the separate prior to departure from the separation activity on the effective date of separation; or on the date authorized travel time commences.

(A) Copy No. 4, containing the statutory or regulatory authority, reentry code, SPD code, and narrative reason for separation also will be physically delivered to the separate prior to departure, if he/she so requested by initiating Block 30, Member Requests Copy 4.

(B) Remaining copies of DD Form 214 will be distributed on the day following the effective date of separation.

(ii) When separation is effected under emergency conditions which preclude physical delivery, or when the recipient departs in advance of normal departure time (e.g., on leave in conjunction with retirement; or at home awaiting separation for disability), the original DD Form 214 will be mailed to the recipient on the effective date of separation.

(iii) If the separation activity is unable to complete all items on the DD Form

214, the form will be prepared as completely as possible and delivered to the separatee. The separatee will be advised that a DD Form 215 will be issued by the Military Service concerned when the missing information becomes available; and that it will not be necessary for the separatee to request a DD Form 215 for such information.

(iv) If an optical character recognition format is utilized by a Military Service, the first carbon copy of the document will be physically delivered or mailed to the separatee as prescribed in paragraphs (b) (i) through (iii) of this section.

(2) *Release from active duty for training, full-time training duty, or active duty for special work.* Personnel being separated from a period of active duty for training, full-time training duty, or active duty for special work will be furnished a DD Form 214 when they have served 90 days or more, or when required by the Secretary concerned for shorter periods. Personnel shall be furnished a DD Form 214 upon separation for cause or for physical disability regardless of the length of time served on active duty.

(3) *Continuing on active duty.* Members who change their status or component, as outlined below, while they are serving on active duty will be provided a completed DD form 214 upon:

(i) Discharge for immediate enlistment or reenlistment (optional—at the discretion of the Military Services). However, Military Services not providing the DD Form 214 will furnish the member a DD Form 256, "Honorable Discharge Certificate," and will issue instructions requiring those military offices which maintain a member's records to provide necessary Service data to the member for application to appropriate civilian individuals, groups, and governmental agencies. Such data will include Service component, entry data and grades.

(ii) Termination of enlisted status to accept an appointment to warrant or commissioned officer grade.

(iii) Termination of a temporary appointment to accept a permanent warrant or commission in the Regular or Reserve components of the Armed Forces.

(iv) Termination of an officer appointment in one of the Military Services to accept appointment in another Service.

(c) *DD Form 214 need not be prepared for:* (1) Personnel found disqualified upon reporting for active duty and who do not enter actively upon duties in accordance with orders.

(2) Personnel whose active duty, active duty for training, full-time training duty or active duty for special work is terminated by death.

(3) Personnel being removed from the Temporary Disability Retired List.

(4) Enlisted personnel receiving temporary appointments to warrant or commissioned officer grades.

(5) Personnel whose temporary warrant or commissioned officer status is terminated and who remain on active duty to complete an enlistment.

(6) Personnel who terminate their Reserve component status to integrate into a Regular component.

(7) Personnel separated or discharged who have been furnished a prior edition of this form, unless that form is in need of reissuance for some other reason.

(d) *Preparation.* The Military Departments will issue instructions governing the preparation of DD Form 214, consistent with the following:

(1) DD Form 214 is an important record of service which must be prepared accurately and completely. Any unavoidable corrections and changes made in the unshaded areas of the form during preparation shall be neat, legible and initialed on all copies by the authenticating official. The recipient will be informed that making any unauthorized change or alteration of the form will render it void.

(2) Since DD Form 214 is often used by civilian personnel, abbreviations should be avoided.

(3) Copies of DD Form 214 transmitted to various governmental agencies shall be legible, especially those provided to the Veterans Administration (Department of Veterans Affairs, effective March 15, 1989, in accordance with section 18(a), Pub. L. 100-527 and the Department of Labor).

(4) The authority for a member's transfer or discharge will be cited by reference to the appropriate Military Service regulation, instruction, or manual, followed by the appropriate separation program designator on copies 2, 4, 7, and 8 only. A narrative description to identify the reason for transfer or separation will not be used on copy 1.

(5) To assist the former Service member in employment placement and job counseling, formal inservice training courses successfully completed during the period covered by the form will be listed in Block 14, Military Education; e.g., medical, dental, electronics, supply, administration, personnel or heavy equipment operations. Training courses for combat skills will not be listed. See 1978 Guide to the Evaluation of Educational Experiences in the Armed

Services for commonly accepted course titles and abbreviations.

(6) For the purpose of reemployment rights (DoD Directive 1205.12)¹ all extensions of service, except those under 10 U.S.C. 972, are considered to be at the request and for the convenience of the Government. In these cases, Block 18 of DD Form 214 will be annotated to indicate "Extension of service was at the request and for the convenience of the Government."

(7) When one or more of the data items on the DD Form 214 are not available and the document is issued to the separatee, the applicable block(s) will be annotated "See Remarks." In such cases, Block 18 will contain the entry "DD Form 215 will be issued to provide missing information." When appropriate, Block 18 will also reflect the amount of disability pay, and the inclusive dates of any nonpay/excess leave days.

(8) The authorizing official (E-7, GS-7 or above) will sign the original in ink ensuring that the signature is legible on all carbon copies. If not, a second signature may be necessary on a subsequent carbon copy. The authorized official shall be an E-7, GS-7, or higher grade, except that the Service concerned may authorize chiefs of installation separation activities (E-5, GS-5, or above) to serve in this capacity if designated in writing by the responsible commander and/or director (O-4, or above).

(9) The following are the only authorized entries in Block 24, Character of Service, as appropriate: "Honorable," "Under Honorable Conditions (General)," "Under Other Than Honorable Conditions," "Bad Conduct," "Dishonorable," or "Uncharacterized." When a discharge has been upgraded, the DD Form 214 will be annotated on copies 2 through 8 in Block 18 to indicate the character of service has been upgraded; the date the application for upgrade was made; and the effective date of the corrective action.

(10) The date entered in Block 12.a. shall be the date of enlistment for the earliest period of continuous active service for which a DD Form 214 was not previously issued. For members who have previously reenlisted without being issued a DD Form 214, and who are being separated with any discharge characterization except "Honorable," the following statement shall appear as the first entry in Block 18., "Remarks," on the DD Form 214: "CONTINUOUS HONORABLE ACTIVE SERVICE FROM

(applicable date) UNTIL (applicable date)." The "from" date shall be the date of initial entry into active duty, or the first day of service for which a DD Form 214 was not previously issued, as applicable; the "until" date shall be the date before commencement of the current enlistment.

(11) For Service members retiring from active duty enter in Block 18., "Subject to active duty recall by Service Secretary."

(12) For Service members being transferred to the Individual Ready Reserve, enter in Block 18., "Subject to active duty recall and/or annual screening."

(e) *Distribution.* The Military Services will prescribe procedures governing the distribution of copies of the DD Forms 214 and 215, consistent with their internal requirements, and the following:

(1) *DD Form 214—(i) Copy No. 1 (original).* To the member.

(ii) *Copy No. 2.* To be used as the Military Services' record copy.

(iii) *Copy No. 3.* To the Veterans Administration (Department of Veterans Affairs, effective March 15, 1989, in accordance with section 18(a), Data Processing Center (214), 1614 E. Woodward Street, Austin, Texas 78772. A reproduced copy will also be provided to the hospital with the medical records if the individual is transferred to a VA hospital. If the individual completes VA Form 21-5267, "Veterans Application for Compensation or Pension," include a copy of the DD Form 214 with medical records forwarded to the VA regional office having jurisdiction over the member's permanent address. When an individual is in Service and enlisting or reenlisting in an active duty status or otherwise continuing on active duty in another status, copy No. 3 will not be forwarded to the VA.

(iv) *Copy No. 4.* To the member, if the member so requested by having initialed Block 30. If the member does not request this copy, it may be retained in the master military personnel record, to be available in case the member requests a copy later.

(v) *Copy No. 5.* To Louisiana UCFE/UCFE, Claims Control Center, Louisiana Department of Labor, P.O. Box 94246, Capitol Station, Baton Rouge, Louisiana 70804-9246.

(vi) *Copy No. 6.* To the appropriate State Director of Veterans Affairs (see enclosure 4), if the member so requested by having checked "Yes" in Block 20, "Member Requests Copy Be Sent to Director of Veterans Affairs." The member must specify the State. If the member does not request the copy be

¹ Copies may be obtained if needed, from the U.S. Naval Publications and Forms Center, Attn: Code 1082, 5801 Tabor Avenue, Philadelphia, PA.

mailed, it may be utilized as prescribed by the Military Service concerned.

(vii) *Copies No. 7 and 8.* To be distributed in accordance with regulations issued by the Military Service concerned.

(viii) *Additional Copy Requirements.* Discharged Alien Deserters. Provide one reproduced copy of Copy No. 1 to the U.S. Department of State, Visa Office—SCA/VO, State Annex No. 2, Washington, D.C. 20520, to assist the Visa Office in precluding the unwarranted issuance of visas to discharged and alien deserters in accordance with DoD Directive 1325.2². Place of birth will be entered in Block 18.

(2) *DD Form 214—ws.* Utilized to facilitate the preparation of DD Form 214. The document will be used and disposed of in accordance with regulations issued by the Military Service concerned.

(3) *DD Form 215.* Utilized to correct errors in DD Form 214 discovered after the original has been delivered and/or distribution of copies of the form has been made, and to furnish to separatee information not available when the DD Form 214 was prepared. The distribution of DD Form 215 will be identical to the distribution of DD Form 214.

(4) *Requests for Copies of DD Form 214 Subsequent to Separation.* Agencies maintaining a separatee's DD Form 214 will provide a copy only upon written request by the member. Agencies will provide the member with 1 copy with the Special Additional Information section, and 1 copy with that information deleted. In the case of DD Form 214 issued prior to July 1, 1979, agencies will provide the member with 1 copy containing all items of information completed, and 1 copy with the following items deleted from the form: Specific authority and narrative reason for separation, reenlistment eligibility code, and separation program designator/number.

(i) In those cases where the member has supplied an authorization to provide a copy of the DD Form 214 to another individual or group, the copy furnished will not contain the Special Additional Information section or, in the case of DD forms issued prior to July 1, 1979, those items listed in paragraph (e)(4) of this section.

(ii) A copy will be provided to authorized personnel for official purposes only.

(f) *Procurement.* Arrangements for procurement of DD Forms 214, 214—ws,

and 215 will be made by the Military Services.

(g) *Modification of Forms.* The modification of the content or format of DD Forms 214, 214—ws, and 215 may not be accomplished without prior authorization of the Assistant Secretary of Defense (Force Management and Personnel) (ASD(FM&P)). Requests to add or delete information will be coordinated with the other Military Services in writing, prior to submission to the ASD(FM&P). If a Military Service uses computer capability to generate forms, the items of information may be arranged, the size of the information blocks may be increased or decreased, and copies 7 and/or 8 may be deleted at the discretion of the Service.

§ 45.4 Responsibilities.

(a) The DD Forms 214 and 215 are a source of significant and authoritative information used by civilian and governmental agencies to validate veteran eligibility for benefits. As such, they are valuable forms and, therefore, vulnerable to fraudulent use. Since they are sensitive, the forms must be safeguarded at all times. They will be transmitted, stored, and destroyed in a manner which will prevent unauthorized use. The Military Services will issue instructions consistent with the following:

(1) All DD Forms 214 will be surprinted with a reproducible screen tint using appropriate security ink on Blocks 1, 3, 4.a, 4.b, 12, and 18 through 30. In addition Blocks 1, 3, 5, and 7 of the DD Form 215 will be similarly surprinted to make alterations readily discernible. No corrections will be permitted in the screened areas.

(2) All forms will be secured after duty hours.

(3) All obsolete forms will be destroyed.

(4) All forms to be discarded, including those which are blank or partially completed, and reproduced copies of DD Form 214, will be destroyed. No forms will be discarded intact.

(5) Blank forms given to personnel for educational or instructional purposes, and forms maintained for such use, are to be clearly voided in an unalterable manner.

(6) The commander or commanding officer of each unit or activity authorized to issue DD Form 214 will appoint, in writing, a commissioned officer, warrant officer, enlisted member (grade E-7 or above), or DoD civilian (GS-7 or above) who will requisition, control, and issue blank DD Forms 214 and 215. The Service concerned may

authorize an E-5 or GS-5 to serve in this capacity.

(7) The Military Services will monitor the use of DD Form 214 and review periodically its issuance to insure compliance with procedures for safeguarding.

(b) The DD Form 214—ws will contain the word "WORKSHEET" on the body of the form (see Appendix B). This DD Form 214—ws will be treated in the same manner as the DD Form 214.

(c) The Military Services will issue appropriate instructions to separation activities stressing the importance of the DD Forms 214 and 215 in obtaining veterans benefits, reemployment rights, and unemployment insurance.

(d) Standard separation program designator (SPD) codes for officer and enlisted personnel developed under the provisions of DoD Instruction 5000.12³ are published in DoD 5000.12—M.

(1) Requests to add, change, or delete an SPD code shall be forwarded by the DoD Component concerned with appropriate justification to the Assigned Responsible Agency accountable for evaluating, recommending approval of, and maintaining such codes: Department of the Navy, Office of The Chief of Naval Operations, (Attention: OP-161), Room 1514, Arlington Annex, Washington, DC 20350-2000.

(2) Requests to add, change, or delete an SPD code will be submitted in accordance with section V., DoD Instruction 5000.12 with prior written approval by the ASD (FM&P), or his/her designee.

(e) All lists of SPD codes, including supplemental lists, published by the DoD Components will be stamped "For Official Use Only" and will not be furnished to any agency or individual outside the Department of Defense.

(1) Appropriate provisions of the Freedom of Information Act will be used to deny the release of the lists to the public. An individual being separated or discharged is entitled access only to his/her SPD code. It is not intended that these codes stigmatize an individual in any manner. They are intended for internal use by the Department of Defense in collecting data to analyze statistical reporting trends that may, in turn, influence changes in separation policy.

(2) Agencies or individuals who come into the possession of these lists are cautioned on their use because a particular list may be outdated and not reveal correctly the full circumstances relating to an individual's separation or discharge.

² See footnote 1 to § 545.3(d)(6).

³ See footnote 1 to § 45.3(d)(6).

APPENDIX A—DD Form 214

CAUTION: NOT TO BE USED FOR
IDENTIFICATION PURPOSESTHIS IS AN IMPORTANT RECORD.
SAFEGUARD ITANY ALTERATIONS IN SHADED
AREAS RENDER FORM VOID

CERTIFICATE OF RELEASE OR DISCHARGE FROM ACTIVE DUTY

1. NAME (Last, First, Middle)		2. DEPARTMENT, COMPONENT AND BRANCH		3. SOCIAL SECURITY NO.	
4.a. GRADE, RATE OR RANK	4.b. PAY GRADE	5. DATE OF BIRTH (YYMMDD)		6. RESERVE OBLIG. TERM. DATE	
				Year	Month Day
7.a. PLACE OF ENTRY INTO ACTIVE DUTY		7.b. HOME OF RECORD AT TIME OF ENTRY (City and state, or complete address if known)			
8.a. LAST DUTY ASSIGNMENT AND MAJOR COMMAND		8.b. STATION WHERE SEPARATED			
9. COMMAND TO WHICH TRANSFERRED				10. SGLI COVERAGE <input type="checkbox"/> None Amount: \$	
11. PRIMARY SPECIALTY (List number, title and years and months in specialty. List additional specialty numbers and titles involving periods of one or more years.)		12. RECORD OF SERVICE		Year(s)	Month(s) Day(s)
		a. Date Entered AD This Period			
		b. Separation Date This Period			
		c. Net Active Service This Period			
		d. Total Prior Active Service			
		e. Total Prior Inactive Service			
		f. Foreign Service			
		g. Sea Service			
h. Effective Date of Pay Grade					
13. DECORATIONS, MEDALS, BADGES, CITATIONS AND CAMPAIGN RIBBONS AWARDED OR AUTHORIZED (All periods of service)					
14. MILITARY EDUCATION (Course title, number of weeks, and month and year completed)					
15.a. MEMBER CONTRIBUTED TO POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE PROGRAM		Yes	No	15.b. HIGH SCHOOL GRADUATE OR EQUIVALENT	
				16. DAYS ACCRUED LEAVE PAID	
17. MEMBER WAS PROVIDED COMPLETE DENTAL EXAMINATION AND ALL APPROPRIATE DENTAL SERVICES AND TREATMENT WITHIN 90 DAYS PRIOR TO SEPARATION					
Yes No					
18. REMARKS					
19.a. MAILING ADDRESS AFTER SEPARATION (Include Zip Code)			19.b. NEAREST RELATIVE (Name and address - include Zip Code)		
20. MEMBER REQUESTS COPY 6 BE SENT TO		DIR. OF VET AFFAIRS		Yes	No
21. SIGNATURE OF MEMBER BEING SEPARATED		22. OFFICIAL AUTHORIZED TO SIGN (Typed name, grade, title and signature)			

SPECIAL ADDITIONAL INFORMATION (For use by authorized agencies only)

23. TYPE OF SEPARATION		24. CHARACTER OF SERVICE (Include upgrades)	
25. NARRATIVE REASON FOR SEPARATION			
29. DATES OF TIME LOST DURING THIS PERIOD		30. MEMBER REQUESTS COPY 4	
		Initials	

DD Form 214, NOV 88

Previous editions are obsolete

/L

BILLING CODE 3810-01-C

APPENDIX B—DD Form 214ws

CAUTION: NOT TO BE USED FOR
IDENTIFICATION PURPOSESTHIS IS AN IMPORTANT RECORD.
SAFEGUARD ITANY ALTERATIONS IN SHADED
AREAS RENDER FORM VOID

CERTIFICATE OF RELEASE OR DISCHARGE FROM ACTIVE DUTY					
1. NAME (Last, First, Middle)		2. DEPARTMENT, COMPONENT AND BRANCH		3. SOCIAL SECURITY NO.	
4.a. GRADE, RATE OR RANK	4.b. PAY GRADE	5. DATE OF BIRTH (YYMMDD)		6. RESERVE OBLIG. TERM. DATE	
7.a. PLACE OF ENTRY INTO ACTIVE DUTY		7.b. HOME OF RECORD AT TIME OF ENTRY (City and state, or complete address if known)			
8.a. LAST DUTY ASSIGNMENT AND MAJOR COMMAND		8.b. STATION WHERE SEPARATED			
9. COMMAND TO WHICH TRANSFERRED				10. SGLI COVERAGE <input type="checkbox"/> None Amount: \$	
11. PRIMARY SPECIALTY (List number, title and years and months in specialty. List additional specialty numbers and titles involving periods of one or more years.)		12. RECORD OF SERVICE			
		a. Date Entered AD This Period			
		b. Separation Date This Period			
		c. Net Active Service This Period			
		d. Total Prior Active Service			
		e. Total Prior Inactive Service			
		f. Foreign Service			
		g. Sea Service			
h. Effective Date of Pay Grade					
13. DECORATIONS, MEDALS, BADGES, CITATIONS AND CAMPAIGN RIBBONS AWARDED OR AUTHORIZED (All periods of service)					
14. MILITARY EDUCATION (Course title, number of weeks and month and year completed)					
15.a. MEMBER CONTRIBUTED TO POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE PROGRAM		Yes	No	15.b. HIGH SCHOOL GRADUATE OR EQUIVALENT	
				16. DAYS ACCRUED LEAVE PAID	
17. MEMBER WAS PROVIDED COMPLETE DENTAL EXAMINATION AND ALL APPROPRIATE DENTAL SERVICES AND TREATMENT WITHIN 90 DAYS PRIOR TO SEPARATION					
18. REMARKS					
19.a. MAILING ADDRESS AFTER SEPARATION (Include Zip Code)			19.b. NEAREST RELATIVE (Name and address - include Zip Code)		
20. MEMBER REQUESTS COPY 4 BE SENT TO			22. OFFICIAL AUTHORIZED TO SIGN (Typed name, grade, title and signature)		
21. SIGNATURE OF MEMBER BEING SEPARATED					
SPECIAL ADDITIONAL INFORMATION (For use by authorized agencies only)					
23. TYPE OF SEPARATION			24. CHARACTER OF SERVICE (include upgrades)		
25. SEPARATION AUTHORITY			26. SEPARATION CODE		27. REENTRY CODE
28. NARRATIVE REASON FOR SEPARATION					
29. DATES OF TIME LOST DURING THIS PERIOD				30. MEMBER REQUESTS COPY 4	
				Initials	

APPENDIX C - DD FORM 215

CAUTION: NOT TO BE USED FOR
IDENTIFICATION PURPOSESANY ALTERATIONS IN SHADED AREAS
RENDER FORM VOID

1. NAME (Last, first, middle)		2. DEPARTMENT, COMPONENT AND BRANCH		3. SOCIAL SECURITY NO. (Last, first, middle) Service Number (if applicable)	
4. MAILING ADDRESS (Include ZIP Code)					
5. ORIGINAL DD FORM 214 IS CORRECTED AS INDICATED BELOW					
ITEM NO.		CORRECTED TO READ			
SEPARATION DATE ON DD FORM 214 BEING CORRECTED					
6. DATE		7. TYPED NAME, GRADE, TITLE AND SIGNATURE OF OFFICIAL AUTHORIZED TO SIGN			

DD Form 215, JUL 79

109/050

PREVIOUS EDITIONS OF THIS
FORM ARE OBSOLETE

BILLING CODE 3810-01-C

CORRECTION TO DD FORM 214, CERTIFICATE OF RELEASE OR
DISCHARGE FROM ACTIVE DUTY
MEMBER - 1

Appendix D—State Directors of Veterans Affairs**ALABAMA**

Director, Department of Veterans Affairs, P.O. Box 1509, Montgomery, AL 36192-3701.

ALASKA

Director, Division of Veterans Affairs, Department of Military & Veterans Affairs, 3601 C Street, Suite 620, Anchorage, AK 99503.

AMERICAN SAMOA

Veterans Affairs Officer, Office of Veterans Affairs, American Samoa Government, P.O. Box 2586, Pago Pago, AS 96799.

ARIZONA

Director of Veterans Affairs, Arizona Veterans Service Commission, 3225 N. Central Avenue, Suite 910, Phoenix, AZ 85012.

ARKANSAS

Director, 1200 West 3rd, Room 105, Box 1280, Little Rock, AR 72201.

CALIFORNIA

Director, Department of Veterans Affairs, 1227 O Street, Room 200A, Sacramento, CA 95814.

COLORADO

Director, Division of Veterans Affairs, Department of Social Services, 1575 Sherman Street, Room 122, Denver, CO 80203.

DELAWARE

Chairman, Commission of Veterans Affairs, P.O. Box 1401, Dover, DE 19901.

DISTRICT OF COLUMBIA

Chief, Office of Veterans Affairs, 941 North Capitol Street NE., Room 1211 F, Washington, DC 20421.

FLORIDA

Director, Division of Veterans Affairs, P.O. Box 1437, St. Petersburg, FL 33731.

GEORGIA

Commissioner, Department of Veterans Service, Floyd Veterans Memorial Bldg, Suite E-970, Atlanta, GA 30334.

GUAM

Office of Veterans Affairs, P.O. Box 3279, Agana, Guam 96910.

HAWAII

Director, Department of Social Services & Housing, Veterans Affairs Section, 3949 Diamond Head Road, Honolulu, HI 96809-0339.

IDAHO

Administrator, Division of Veterans Service, P.O. Box 6675, Boise, ID 83707.

CONNECTICUT

Commandant, Veterans Home and Hospital, 287 West Street, Rocky Hill, CT 06067.

INDIANA

Director, Department of Veterans Affairs, 707 State Office Building, 100 N. Senate Avenue, Indianapolis, IN 46204.

IOWA

Administrator, Veterans Affairs Division, 7700 NW. Beaver Drive, Camp Dodge, Johnston, IA 50131-1902.

KANSAS

Executive Director, Kansas Veterans Commission, Jayhawk Tower, Suite 701, 700 SW. Jackson Street, Topeka, KS 66603-3150.

KENTUCKY

Director, Kentucky Center for Veterans Affairs, 600 Federal Place—Room 1365, Louisville, KY 40202.

LOUISIANA

Executive Director, Department of Veterans Affairs, P.O. Box 94095, Capitol Station, Baton Rouge, LA 70804-4095.

MAINE

Director, Bureau of Veterans Services, State Office Building Station 117, Augusta, ME 04333.

MARYLAND

Executive Director, Maryland Veterans Commission, Federal Bldg.—Room 110, 31 Hopkins Plaza, Baltimore, MD 21201.

ILLINOIS

Director, Department of Veterans Affairs, 208 West Cook Street, Springfield, IL 62705.

MICHIGAN

Director, Michigan Veterans Trust Fund, P.O. Box 30026, Ottawa Bldg, No. Tower, 3rd Floor, Lansing, MI 48909.

MINNESOTA

Commissioner, Department of Veterans Affairs, Veterans Service Building, 2nd Floor, St. Paul, MN 55155.

MISSISSIPPI

President, State Veterans Affairs Board, 120 North State Street, War Memorial

Building, Room B-100, Jackson, MS 39201.

MISSOURI

Director, Division of Veterans Affairs, P.O. Drawer 147, Jefferson City, MO 65101.

MONTANA

Administrator, Veterans Affairs Division, P.O. Box 5715, Helena, MT 59604.

NEBRASKA

Director, Department of Veterans Affairs, P.O. Box 95083, State Office Building, Lincoln, NE 68509.

NEVADA

Commissioner, Commission for Veterans Affairs, 1201 Terminal Way, Room 108, Reno, NV 89520.

MASSACHUSETTS

Commissioner, Department of Veterans Services, 100 Cambridge Street—Room 1002, Boston, MA 02202.

NEW JERSEY

Director, Division of Veterans Programs & Special Services, 143 E. State Street, Room 505, Trenton, NJ 08608.

NEW MEXICO

Director, Veterans Service Commission, P.O. Box 2324, Santa Fe, NM 87503.

NEW YORK

Director, Division of Veterans Affairs, State Office Building #6A-19, Veterans Highway, Hauppauge, NY 11788.

NORTH CAROLINA

Asst Secretary for Veterans Affairs, Division of Veterans Affairs, 227 E. Edenton Street, Raleigh, NC 27601.

NORTH DAKOTA

Commissioner, Department of Veterans Affairs, 15 North Broadway, Suite 613, Fargo, ND 58102.

OHIO

Director, Division of Soldiers Claims & Veterans Affairs, State House Annex, Room 11, Columbus, OH 43215.

OKLAHOMA

Director, Department of Veterans Affairs, P.O. Box 53067, Oklahoma City, OK 73152.

NEW HAMPSHIRE

Director, State Veterans Council, 359 Lincoln Street, Manchester, NH 03103.

OREGON

Director, Department of Veterans Affairs, Oregon Veterans Building, 700 Summer Street NE., Suite 150, Salem, OR 97310-1270.

PENNSYLVANIA

Director, Department of Military Affairs, Bureau for Veterans Affairs, Fort Indiantown Gap, Bldg 5-0-47, Annville, PA 17003-5002.

PUERTO RICO

Director, Bureau of Veterans Affairs & Human Resources, Department of Labor, 505 Munoz Rivera Avenue, Hato Rey, PR 00918.

RHODE ISLAND

Chief, Veterans Affairs Office, Metacom Avenue, Bristol, RI 02809.

SOUTH CAROLINA

Director, Department of Veterans Affairs, Brown State Office Building, 1205 Pendleton Street, Columbia, SC 29201.

SOUTH DAKOTA

Director, Division of Veterans Affairs, 500 East Capitol Avenue, State Capitol Building, Pierre, SD 57501-5083.

TENNESSEE

Commissioner, Department of Veterans Affairs, 215 8th Avenue, North, Nashville, TN 37203.

TEXAS

Executive Director, Veterans Affairs Commission of Texas, Box 12277, Capitol Station, Austin, TX 78711.

UTAH

No DVA.

VERMONT

Director, Veterans Affairs Office, State Office Building, Montpelier, VT 05602.

VIRGINIA

Director, Division of War Veterans Claims, 210 Franklin Road, SW., Room 1002, P.O. Box 809, Roanoke, VA 24004.

VIRGIN ISLANDS

Director, Division of Veterans Affairs, P.O. Box 890, Christiansted, St. Croix, VI 00820.

WASHINGTON

Director, Department of Veterans Affairs, P.O. Box 9778, Mail Stop PM-41, Olympia, WA 98504.

WEST VIRGINIA

Director, Department of Veterans Affairs, 605 Atlas Building, Charleston, WV 25301-9778.

WISCONSIN

Secretary, Department of Veterans Affairs, P.O. Box 7843, 77 North Dickinson Street, Madison, WI 53707.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

February 15, 1989.

[FR Doc. 89-3911 Filed 2-17-89; 8:45 am]

BILLING CODE 3810-01-M

POSTAL SERVICE**39 CFR Part 265****Release of Information; Modification of Fees for Record Retrieval by Computer**

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: By this final rule the Postal Service modifies the fees charged for furnishing Postal Service records retrieved by computer to members of the public. The modified fees implement existing policy to recover the actual cost incurred by the Postal Service for the retrieval and represent no change in policy concepts.

EFFECTIVE DATE: March 23, 1989.

FOR FURTHER INFORMATION CONTACT: Betty E. Sheriff (202) 268-5158.

SUPPLEMENTARY INFORMATION: On November 29, 1988, the Postal Service published for comment in the *Federal Register* (53 FR 47977) a proposal to modify the fees charged for furnishing Postal Service records retrieved by computer to members of the public. Interested persons were invited to submit comments on the proposal by December 29, 1988. No comments were received. Accordingly, the Postal Service hereby adopts the proposal without change and amends 39 CFR Part 265 as follows:

List of Subjects in 39 CFR Part 265

Freedom of information, Postal Service.

PART 255—RELEASE OF INFORMATION

1. The authority citation for Part 265 continues to read as follows:

Authority: 39 U.S.C. 401; 5 U.S.C. 552.

§ 265.8 [Amended]

2. Section 265.8(b)(1)(ii) is amended by removing the parenthetical sentence at the end thereof and adding, in its place, the following sentence: "(See Appendix A.)"

3. Appendix A to Part 265 is revised to read as follows:

Appendix A—Information Services Price List

When information is requested that must be retrieved by computer, the requester is charged for the resources required to furnish the information. Estimates are provided to the requester in advance and are based on the following price list.

Description of services	Price	Unit
A. System Utilization Services: Central Processor Unit (CPU): Based upon IBM 3090-200 Performance Standard: Batch Processing.....	\$3,000.00	Hour.
Time Sharing Option (TSO).	3,400.00	Hour.
Customer Information Control System (CICS).	3,400.00	Hour.
Integrated Data Base Management System (IDMS).	3,400.00	Hour.
Direct Access Storage Device (DASD): Channel Utilization (EXCPs—execution of channel programs).	.45	1,000 lines.
Tape Channel Utilization (EXCPs).	.80	1,000 lines.
Local Printing.....	.95	1,000 lines.
B. Personnel Charges: Manual Unit Personnel....	30.00	Hour.
Systems & Programming Personnel.	42.00	Hour.

Fred Eggleston,

Assistant General Counsel, Legislative Division.

[FR Doc. 89-3861 Filed 2-17-89; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 271**

[FRL-3526-3]

State of Utah; Final Authorization of State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency.

ACTION: Final Rule on Application of Utah for Program Revision Authorization.

SUMMARY: Utah has applied for final authorization of revisions to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). The Environmental Protection Agency (EPA) has reviewed Utah's application and has reached a

decision that Utah's hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Thus, EPA is granting final authorization to Utah to operate its revised program, subject to the authority retained by EPA in accordance with RCRA and the Hazardous and Solid Waste Amendments of 1984.

EFFECTIVE DATE: Final authorization for Utah shall be effective at 1:00 p.m. on March 7, 1989.

FOR FURTHER INFORMATION CONTACT: Diana Shannon, Chief, RCRA Management Branch, Hazardous Waste Management Division, EPA Region VIII, Suite 500, 999 18th Street, Denver, Colorado 80202. Her telephone number is (303) 293-7540.

SUPPLEMENTARY INFORMATION:

A. Background

States with final authorization under section 3006(b) of the Resource Conservation and Recovery Act ("RCRA" or "the Act"), 42 U.S.C. 6929(b), have a continuing obligation to maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal hazardous waste program. In addition, as an interim measure, the Hazardous and Solid Waste Amendments of 1984 (Pub. L. 98-616, November 8, 1984, hereinafter "HSWA") allows States to revise their programs to become substantially equivalent instead of equivalent to RCRA requirements promulgated under HSWA authority.

Revisions to State hazardous waste programs are necessary when Federal or State statutory or regulatory authority is

modified or when certain other changes occur. Most commonly, State program revisions are necessitated by changes to EPA's regulations in 40 CFR Parts 260-266, 268, 124, and 270.

B. Utah

Utah initially received final authorization on October 24, 1984. On October 29, 1986, Utah submitted a program revision application for additional program approvals. On November 25, 1988, EPA published a proposal to approve Utah's application for program revision in accordance with 40 CFR 271.21(b)(4).

EPA has reviewed Utah's application, and has made a final decision that Utah's hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Consequently, EPA is granting final authorization for the additional program modifications to the State of Utah.

EPA has carefully reviewed comments received during the public comment period, and has determined that neither comment received provided sufficient basis to deny authorization of Utah's hazardous waste program. The comments and EPA's response to the comments are summarized below.

A comment was received that the permitting process should, but does not, eliminate dual permits. EPA feels that the commenters are correct that authorization of the Utah hazardous waste program for the portions of the Federal program that are the subject of the current authorization application will not completely eliminate the need for facilities to obtain both a State and Federal permit for management of

hazardous waste. Federal hazardous waste laws and regulations continue to change, and while States seeking to maintain an authorized program are required to adopt changes to the Federal program, there will nearly always be a period of time in which the authorized State program will not completely parallel the Federal program. During this time period, a complete hazardous waste management permit will consist of a State-issued portion and a federally-issued portion.

EPA encourages States to proceed as rapidly as possible to seek authorization for all aspects of hazardous waste regulation, and continues to explore procedures to speed up the process. The inability to eliminate the temporary need for dual permits is not a basis upon which Utah's request for authorization should be denied.

Another comment was that the State's agreement to modify or revoke and reissue permits issued under State law to require compliance with the amended State program must be consistent with State regulations. EPA agrees that the State is required to comply with its own laws and regulations. In light of the previous comment, EPA notes that it may be advantageous to facilities currently holding dual permits to seek modifications to their State-issued permits to encompass all requirements for which the State will now have authority. In this way, the facility will lessen the burden of dealing with two separate authorities.

Utah is receiving authority to administer all provisions, both HSWA and non-HSWA, through the August 20, 1985, Federal Register. These provisions are listed below in Table 1:

TABLE 1

Provisions	Federal citation	Date of State adoption
Non-HSWA:		
1. Listing of Warfarin and Zinc Phosphide.....	49 FR 19922	09-24-86
2. State Availability of Information.....	HSWA 3006(f)	07-01-88
3. Exclusion of Household Waste.....	49 FR 44980	09-24-86
4. Applicability-Interim Status Standards.....	49 FR 46095	09-24-86
5. Corrections to Test Methods Manual.....	49 FR 47391	09-24-86
6. Satellite Accumulation.....	49 FR 49571	09-24-86
7. Redefinition of Solid Waste.....	50 FR 614	09-24-86
8. Int. Status Standards for Landfills and Surface Impoundments.....	50 FR 16044	09-24-86
HSWA:		
1. Dioxin Listing and Management Stds.	50 FR 1978	09-24-86
2. Paint Filter Test.....	50 FR 18370	09-24-86
3. Small Quantity Generators.....	50 FR 28702	09-24-86
4. Delisting.....	50 FR 28702	09-24-86
5. Household Wastes.....	50 FR 28702	09-24-86
6. Waste Minimization.....	50 FR 28702	09-24-86
7. Location Standards.....	50 FR 28702	09-24-86
8. Liquids in Landfills.....	50 FR 28702	09-24-86
9. Dust Suppression.....	50 FR 28702	09-24-86
10. Double Liners; Landfills, Surface Impoundments, Waste Piles.....	50 FR 28702	09-24-86
11. Groundwater Monitoring, Landfills, Surface Impds., Waste Piles.....	50 FR 28702	09-24-86
12. Cement Kilns; Hazardous Waste Burning Prohibition.....	50 FR 28702	09-24-86

TABLE 1—Continued

Provisions	Federal citation	Date of State adoption
13. Fuel Labeling	50 FR 28702	09-24-86
14. Corrective Action	50 FR 28702	09-24-86
15. Pre-construction Ban	50 FR 28702	09-24-86
16. Permit Life	50 FR 28702	09-24-86
17. Omnibus Permit Provision	50 FR 28702	09-24-86
18. Interim Status: Termination	50 FR 28702	09-24-86
19. Research and Development Permits	50 FR 28702	09-24-86
20. Hazardous Waste Exports	50 FR 28702	09-24-86
21. Exposure Information	50 FR 28702	09-24-86

Utah is granted authority to regulate the hazardous components of radioactive mixed waste (51 FR 24504, July 3, 1986, and Utah Solid and Hazardous Waste Act, section 26-14-6 of the Utah Code Annotated).

Major Utah Statutory Citations Broader in Scope Than the Federal Program

The following provisions of the State's hazardous waste program are broader in scope than the Federal program, and thus are not part of the program authorized by today's action.

The Utah Statute defines "high level" nuclear waste to include spent reactor fuel assemblies, dismantled nuclear reactor components and both solid and liquid wastes from fuel reprocessing and defense-related wastes. High level nuclear waste does not include medical or institutional wastes or naturally occurring radioactive materials or mill tailings. It is prohibited to place these wastes anywhere in the State unless the County Commission and State Legislature approve such placement. Subtitle C of RCRA does not distinguish between classes of radioactive mixed wastes (i.e., "high level", "low level," etc.) and the state's regulation of mixed waste is fully equivalent to EPA's regulations.

According to the State statute, the State's Hazardous Waste Committee is required to develop a siting plan for hazardous waste treatment, storage and disposal facilities, as well as to certify such sites as suitable for construction and operation.

The State statute allows for the creation of the Hazardous Waste Facilities Authority, made up of ten members appointed by the Governor, with the task of managing the State's interests in the transport, storage and disposal of hazardous waste when private industry is not adequately doing the job.

Permitting Program

Pursuant to section 3006(g)(1) of RCRA, and in accordance with the

Hazardous and Solid Waste Amendments of 1984 (HSWA), EPA has the authority to issue or deny permits or those portions of permits to facilities in Utah for the requirements and prohibitions in or stemming from HSWA until the State's program is amended to reflect those requirements and prohibitions, and authorization is received for such portion or portions of the program.

EPA and the State of Utah have established a joint permitting process for issuing RCRA permits in the State of Utah. This joint permitting process is established in accordance with section 3006(c)(4) of RCRA. The details of the joint permitting process shall be incorporated into the State Grant Work Program.

Upon authorization of the State for any of the provisions of HSWA, the specifics of the Joint Permitting Agreement as set forth in the State Grant Work Program shall be amended to reflect the authorization.

The State will administer all permits issued either by EPA or by the State, except that EPA will administer RCRA permits or portions of permits it has issued to facilities in the State to the extent that those permits or portions of permits contain prohibitions and requirements pursuant to HSWA that the State program is not authorized to administer. When the State either incorporates the terms and conditions of the Federal permits in State RCRA permits or issues State RCRA permits to these facilities, EPA may terminate those EPA permits pursuant to 40 CFR Part 270 and will rely on the State to enforce those terms and conditions subject to the terms of the Utah/EPA Hazardous Waste Program Enforcement Agreement.

The State agrees to review all hazardous waste permits which were issued under State law prior to the effective date of this Authorization and to modify or revoke and reissue such permits necessary to require compliance with the amended State Program, the

Utah Solid and Hazardous Waste Act (sections 26-14-1 through 26-14-23 of the Utah Code Annotated), the Utah Hazardous Waste Management Regulations and the Utah Rulemaking Act (section 63-46a-15 of the Utah Code Annotated). The State agrees to modify or revoke and reissue these State permits as RCRA permits, if necessary, within 1 year of the date of this Authorization.

Indian Lands

Utah is not authorized by the Federal Government to operate the RCRA program on Indian lands and this authority will remain with EPA.

C. Decision

I conclude that Utah's application for program revision meets all of the statutory and regulatory requirements established by RCRA. Accordingly, Utah is granted final authorization to operate its hazardous waste program as revised. Utah now has responsibility for permitting treatment, storage, and disposal facilities within its borders and carrying out other aspects of the RCRA program, subject to the limitation of its program revision application and previously approved authorities. Utah also has primary enforcement responsibilities subject to program revision limitations, although EPA retains the right to conduct inspections under section 3007 of RCRA and to take enforcement actions under section 3008, 3013 and 7003 of RCRA.

Compliance With Executive Order 12291

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 4 U.S.C. 605(b), I hereby certify that this Authorization will not have a significant economic impact on a substantial number of small entities. This

Authorization effectively suspends the applicability of certain Federal regulations in favor of Utah's program, thereby eliminating duplicative requirements for handlers of hazardous waste in the State. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 271

Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Authority: This notice is issued under the authority of secs. 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: January 2, 1989.

James J. Scherer,

Regional Administrator.

[FR Doc. 89-4020 Filed 2-17-89; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 272

[FRL-3522-1]

Hazardous Waste Management Program Codification of Approved State Hazardous Waste Program for Michigan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Resource Conservation and Recovery Act of 1976 (RCRA), as amended, authorizes the U.S. Environmental Protection Agency (U.S. EPA) to grant Final Authorization to States to operate their hazardous waste management programs, in lieu of the Federal program. 40 CFR Part 272 codifies EPA's prior authorization of State programs and incorporates, by reference, those provisions of the State statutes and regulations that EPA will enforce under RCRA sections 3007, 3008, 3013, and 7003. Thus, EPA intends to codify the Michigan authorized State program in Part 272.

DATES: The codification of Michigan's authorized hazardous waste program shall be effective April 24, 1989, unless EPA publishes a prior Federal Register action withdrawing this immediate final rule. All comments on Michigan's codification must be received by the close of business April 24, 1989. The incorporation by reference of certain publications listed in the regulations is

approved by the Director of the Federal Register as of April 24, 1989.

ADDRESSES: Written comments should be sent to Brian Barwick, Michigan Regulatory Specialist, Regulatory Development Section, U.S. EPA, Region V, 230 South Dearborn Street, 5HR-JCK-13, Chicago, Illinois 60604, (312) 886-6085, (FTS: 8-886-6085).

FOR FURTHER INFORMATION CONTACT: Brian Barwick, Michigan Regulatory Specialist, Regulatory Development Section, U.S. EPA, Region V, 230 South Dearborn Street, 5HR-JCK-13, Chicago, Illinois, 60604, (312) 886-6085, (FTS: 8-886-6085).

SUPPLEMENTARY INFORMATION:

Background

Section 3006 of the Resource Conservation and Recovery Act of 1976, as amended, (RCRA), 42 U.S.C. 6926 *et seq.*, allows the U.S. Environmental Protection Agency (EPA) to authorize State hazardous waste programs to operate in the State, in lieu of the Federal hazardous waste program. On October 16, 1986, EPA published a Federal Register notice announcing its decision to grant final authorization to Michigan (See 51 Federal Register 36804). This final authorization became effective on October 30, 1986.

Since that time, EPA has decided to codify its approval of State programs in Part 272 of Title 40, Code of Federal Regulations (CFR) and to incorporate by reference therein the State statutes and regulations that EPA will enforce under sections 3007, 3008, 3013, and 7003 of RCRA. The intended codification reflects the State program that was in effect when EPA granted Michigan final authorization under section 3006(b) for its hazardous waste program.

This effort will provide clearer notice to the public of the scope of the authorized program in each State. Such notice is particularly important, in light of the Hazardous and Solid Waste Act Amendments of 1984 (HSWA), Pub. L. 98-616. Revisions to State hazardous waste programs are necessary when Federal statutory or regulatory authority is modified. Because HSWA extensively amended RCRA, State programs must be modified to reflect those amendments. By codifying the authorized Michigan program and by amending the Code of Federal Regulations whenever a new or different set of requirements are authorized in Michigan, the status of federally approved requirements of the Michigan program will be readily discernible.

The Agency will only codify for enforcement purposes those provisions of the Michigan hazardous waste

management program for which authorization approval has been granted by EPA. Concerning HSWA, some State requirements may be similar to HSWA requirements that are in effect under Federal statutory authority in that State. However, a State's HSWA-type requirements are not authorized and will not be codified into the CFR, until the Regional Administrator publishes his final decision to authorize the State for specific HSWA requirements. Until such time, EPA will enforce the HSWA requirements and not the State analogues.

To codify Michigan's authorized hazardous waste program, EPA will add Subpart X to Part 272 of Title 40 of the CFR. Subpart X has previously been reserved for Michigan. Sections 272.1151(a)(1), and 272.1151(b)-(d) intend to codify for enforcement purposes, the State statutes and regulations, the Memorandum of Agreement, the Attorney General's Statement and the Program Description which are authorized and made part of the hazardous waste management program under Subtitle C of RCRA.

The Agency retains the authority under sections 3007, 3008, 3013 and 7003 of RCRA to undertake enforcement actions in authorized States. With respect to such an enforcement action, the Agency will rely on Federal sanctions, Federal inspection authorities, and the Federal Administrative Procedures Act rather than the State authorized analogues to these requirements. Therefore, the Agency does not intend to codify for purposes of enforcement such particular, authorized Michigan enforcement authorities. Section 272.1151(a)(2) lists those authorized Michigan authorities that would fall into this category.

The public also needs to be aware that some provisions of the State's hazardous waste management program are not part of the federally authorized State program. These non-authorized provisions are not part of the RCRA Subtitle C program because they are "broader in scope" than RCRA Subtitle C. See 40 CFR 271.1(i). As a result, State provisions which are "broader in scope" than the Federal program are not codified for purposes of enforcement in Part 272. Section 272.1151(a)(3) of the intended codification simply lists for reference and clarity the Michigan statutory and regulatory provisions which are "broader in scope" than the Federal program and which are not, therefore, part of the authorized program being codified. "Broader in scope" provisions will not be enforced by EPA;

the State, however, will continue to enforce such provisions.

As noted above, the Agency is not amending Part 272 to include HSWA requirements and prohibitions that are immediately effective in Michigan and other States. Section 3006(g) of RCRA provides that any requirement or prohibition of HSWA (including implementing regulations) takes effect in authorized States at the same time that it takes effect in non-authorized States. Thus, EPA has immediate authority to implement a HSWA requirement or prohibition once it is effective. A HSWA requirement or prohibition supersedes any less stringent or inconsistent State provision which may have been previously authorized by EPA (see 50 FR 28702, July 15, 1985).

Because of the vast number of HSWA statutory and regulatory requirements taking effect over the next few years, EPA expects that many previously authorized and codified State provisions will be affected. The States are required to revise their programs to adopt the HSWA requirements and prohibition by the deadlines set forth in 40 CFR 271.21, and then to seek authorization for those revisions, pursuant to 271. EPA expects that the States will be modifying their programs substantially and repeatedly. Instead of amending the Part 272 codification every time a new HSWA provision takes effect under the authority of RCRA 3006(g), EPA will wait until the State receives authorization for its analog to the new HSWA provision, before amending the State's Part 272 codification. In the interim, persons wanting to know whether a HSWA requirement or prohibition is in effect should refer to 40 CFR 271.1(j), as amended, which lists each such provision.

The codification of State authorized programs in the CFR should substantially enhance the public's ability to discern the current status of the authorized State program and clarify the extent of Federal enforcement authority. This will be particularly true as more State program revisions to adopt HSWA provisions are authorized.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this action will not have a significant economic impact on a substantial number of small entities. It intends to codify the decision already made to authorize Michigan's program and has no separate affect on handlers of hazardous waste in the State or upon small entities. This rule, therefore, does not require a regulatory flexibility analysis.

Compliance With Executive Order 12291

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, Federal agencies must consider the paperwork burden imposed by any information request contained in a proposed rule or a final rule. This rule will not impose any information requirements upon the regulated community.

List of Subjects in 40 CFR Part 272

Administrative practice and procedure, Confidential business information, Hazardous waste transportation, Hazardous waste, Incorporation by reference, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Todd A. Cayer,

Acting Regional Administrator.

For the reasons set forth in the preamble, 40 CFR Part 272 is amended to read as follows:

PART 272—APPROVED STATE HAZARDOUS WASTE MANAGEMENT PROGRAMS

1. The authority for Part 272 continues to read as follows:

Authority: Secs. 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6912(a), 6926, and 6974(b).

2. The table of content for Subpart X of Part 272 is revised to read as follows:

Subpart X—Michigan

Sec.

272.1150 State authorization.

272.1151 State-administered program: Final authorization.

272.1152—272.1199 [Reserved]

3. 40 CFR Part 272, Subpart X is amended by adding §§ 272.1150 and 272.1151 to read as follows:

Subpart X—Michigan

§ 272.1150 State authorization.

(a) The State of Michigan is authorized to administer and enforce a hazardous waste management program in lieu of the Federal program under Subtitle C of the Resource Conservation and Recovery Act of 1976 (RCRA), 42 U.S.C. 6921 *et seq.*, subject to the Hazardous and Solid Waste Amendments of 1984 (HSWA) (Pub. L. 98-616, Nov. 8, 1984), 42 U.S.C. 6926 (c)

and (g)). The Federal program for which a State may receive authorization is defined in 40 CFR Part 271. The State's program, as administered by the Michigan Department of Natural Resources, was approved by EPA, pursuant to 42 U.S.C. 6926(b) and Part 271 of this chapter. EPA's approval was published on October 16, 1986, and was effective on October 30, 1986. (See 51 FR 36804)

(b) Michigan is not authorized to implement any HSWA requirements in lieu of EPA, unless EPA has explicitly indicated its intent to allow such action in a Federal Register notice, granting Michigan authorization.

(c) Michigan has primary responsibility for enforcing its hazardous waste program. However, EPA retains the authority to exercise its enforcement authorities under sections 3007, 3008, 3013, and 7003 of RCRA, 42 U.S.C. 6927, 6928, 6934, and 6973, as well as under other Federal laws and regulations.

(d) Michigan must revise its approved program to adopt new changes to the Federal Subtitle C program in accordance with section 3006(b) of RCRA and 40 CFR Part 271, Subpart A. Michigan must seek final authorization for all program revisions, pursuant to section 3006(b) of RCRA but, on a temporary basis, may seek interim authorization for revisions required by HSWA, pursuant to section 3006(g) of RCRA, 42 U.S.C. 6926(g). If Michigan obtains final authorization for the revised requirements pursuant to section 3006(g), the newly authorized provisions will be listed in § 272.1151 of this subpart. If Michigan obtains interim authorization for the revised requirements pursuant to section 3006(g), the newly authorized provisions will be listed in § 272.1152.

§ 272.1151 State-administered program: Final authorization.

Pursuant to section 3006(b) of RCRA, 42 U.S.C. 6926(b): Michigan has final authorization for the following elements submitted to EPA in Michigan's program application for final authorization and approved by EPA, effective October 30, 1986. (See 51 FR 36804)

(a) State Statutes and Regulations. (1) The requirements in the Michigan statutes and regulations cited in this paragraph are incorporated by reference and codified as part of the hazardous waste management program under Subtitle C of RCRA, 42 U.S.C. 6921 *et seq.* This incorporation, by reference, was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a).

(i) Michigan Compiled Laws Annotated, §§ 299.501–506, 299.521–522, 299.532–535, 299.537, and 299.539–541 (P.A. 64 of 1979 as amended by P.A. 486 of 1982, effective March 30, 1983). Copies of the State laws incorporated by reference in this paragraph are available from West Publishing Co., 50 West Kellogg Boulevard, P.O. Box 64526, St. Paul, Minnesota 55164–0526.

(ii) Michigan Administrative Code Rules 299.9101–9208(1), 299.9208(3)–9209(1), 299.9209(4)–9209(5), 299.9210(2)–9211(1)(a), 9213(1)(b), 299.9213(2)–9216, 299.9218, 299.9301–9304(1)(b), 299.9304(1)(d)–9401(5), 299.9402, 299.9404(1), 299.9404(1)(b)–9405, 299.9407, 299.9409–9410, 299.9501–9504(1), 299.9504(1)(b)–9506, 299.9508–9508(1)(g), 299.9508(1)(i)–9521(1)(b), 299.9521(2)–9522, 299.9601–9611(2)(a), 299.9611(3)–9622, 299.9623(2)–9710, 299.9801–9804, and 299.11001–11008 (1985 Annual Michigan Administrative Code Supplement). Copies of the Michigan regulations which are incorporated by reference in this paragraph are available from the Legislative Service Bureau, Billie S. Farnum Building, 125 West Allegan, Post Office Box 30036, Lansing, Michigan 48909.

(2) The following statutes and regulations, although not codified herein for enforcement purposes, are part of the authorized State program.

(i) Michigan Compiled Laws Annotated, § 24.201–328 (P.A. 306 of 1969, effective July 1, 1970), §§ 299.507, 299.514–520, 299.523–528, 299.544, and 299.546–548 (P.A. 64 of 1979 as amended by P.A. 486 of 1982, effective March 30, 1983).

(ii) Michigan Administrative Code Rules 299.9521(1)(c), 299.11101–11107 (1985 Annual Michigan Administrative Code Supplement).

(3) The following statutory and regulatory provisions are broader in scope than the Federal program, are not part of the authorized program, and are not codified herein for enforcement purposes.

(i) Michigan Compiled Laws Annotated, §§ 299.508–513, 299.529, 299.531, and 299.542–543 (P.A. 64 of 1979 as amended by P.A. 486 of 1982).

(ii) Michigan Administrative Code Rules 299.9208(2), 299.9209(2)–(3), 299.9210(1), 299.9211(1)(b), 299.9212(5), 299.9213(1)(c) and (d), 299.9217, 299.9219–9221, 299.9304(1)(c), 299.9401(6), 299.9403, 299.9404(1)(a), 299.9406, 299.9408, 299.9411–9412, 299.9504(1)(a), 299.9507, 299.9508(1)(h), 299.9523, 299.9611(2)(b) and (c), 299.9623(1), 299.9711, and 299.9901–9906 (1985 Annual Michigan Administrative Code Supplement).

(b) Memorandum of Agreement. The Memorandum of Agreement between EPA Region V and the Michigan Department of Natural Resources, signed by the EPA Regional Administrator on September 23, 1986, is codified as part of the authorized hazardous waste management program under Subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

(c) Statement of Legal Authority. "Attorney General's Statement for Final Authorization" signed by the Attorney General of Michigan on October 25, 1985, and supplements to that Statement dated June 3, 1986, and September 19, 1986, are codified as part of the authorized hazardous waste management program under Subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

(d) Program Description. The Program Description and the supplement thereto dated August 20, 1986, are codified as part of the authorized hazardous waste management program under Subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

[FR Doc. 89–3811 Filed 2–17–89; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 272

[FRL–3522–6]

Codification of Approved State Hazardous Waste Program for Wisconsin

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Resource Conservation and Recovery Act of 1976 as amended (RCRA) authorizes the U.S. Environmental Protection Agency (EPA) to grant Final Authorization to States to operate their hazardous waste management programs in lieu of the Federal program. 40 CFR Part 272 codifies EPA's prior authorization of State programs and incorporates by reference those provisions of the State statutes and regulations that EPA will enforce under RCRA sections 3007, 3008, 3013, and 7003. Thus, EPA intends to codify the Wisconsin authorized State program in Part 272.

DATES: The codification of Wisconsin's authorized hazardous waste program shall be effective April 24, 1989, unless EPA publishes a prior Federal Register action withdrawing this immediate final rule. All comments on Wisconsin's codification must be received by the close of business April 24, 1989. The incorporation of certain publications listed in the regulations is approved by the Director of the Federal Register as of

April 24, 1989. The incorporation of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 24, 1989.

ADDRESSES: Written comments should be sent to Brian Barwick, Acting Wisconsin Regulatory Specialist, Office of RCRA, U.S. EPA Region V, 230 South Dearborn Street, 5HR–JCK–13, Chicago, Illinois 60604, (312) 886–6085. (FTS: 8–886–6085).

FOR FURTHER INFORMATION CONTACT: Brian Barwick, Acting Wisconsin Regulatory Specialist, Office of RCRA, U.S. EPA Region V, 230 South Dearborn Street, 5HR–JCK–13, Chicago, Illinois 60604, (312) 886–6085, FTS: 8–886–6085).

SUPPLEMENTARY INFORMATION:

Background

Section 3006 of the Resource Conservation and Recovery Act of 1976, as amended, (RCRA), 42 U.S.C. 6926 *et seq.*, allows the U.S. Environmental Protection Agency (EPA) to authorize State hazardous waste programs to operate in the State in lieu of the Federal hazardous waste program. On January 30, 1986, EPA published a Federal Register notice announcing its decision to grant final authorization to Wisconsin (see 51 FR 3783). This final authorization became effective on January 31, 1986.

Since that time, EPA has decided to codify its approval of State programs in Part 272 of Title 40, Code of Federal Regulations (CFR) and to incorporate by reference therein the State statutes and regulations that EPA will enforce under sections 3007, 3008, 3013, and 7003 of RCRA. The intended codification reflects the State program that was in effect when EPA granted Wisconsin final authorization under section 3006(b) for its hazardous waste program. This effort will provide clearer notice to the public of the scope of the authorized program in each State. Such notice is particularly important in light of the Hazardous and Solid Waste Act Amendments of 1984 (HSWA), Pub. L. 98–616. Revisions to State hazardous waste programs are necessary when Federal statutory or regulatory authority is modified. Because HSWA extensively amended RCRA, State programs must be modified to reflect those amendments. By codifying the authorized Wisconsin program and by amending the Code of Federal Regulations whenever a new or different set of requirements is authorized in Wisconsin, the status of Federally approved requirements of the Wisconsin program will be readily discernible.

The Agency will only codify for enforcement purposes those provisions of the Wisconsin hazardous waste management program for which authorization approval has been granted by EPA. Concerning HSWA, some State requirements may be similar to HSWA requirements that are in effect under Federal statutory authority in that State. However, a State's HSWA-type requirements are not authorized and will not be codified into the CFR until the Regional Administrator publishes his final decision to authorize the State for specific HSWA requirements. Until such time, EPA will enforce the HSWA requirements and not the State analogues.

To codify Wisconsin's authorized hazardous waste program, EPA will add Subpart YY to Part 272 of Title 40 of the CFR. Subpart YY has previously been reserved for Wisconsin. Section 272.2501(a)(1) and § 272.2501(b)-(d) intend to codify for enforcement purposes, the State statutes and regulations, the Memorandum of Agreement, the Attorney General's Statement and the Program Description which are authorized and made part of the hazardous waste management program under Subtitle C of RCRA.

The Agency retains the authority under sections 3007, 3008, 3013, and 7003 of RCRA to undertake enforcement actions in authorized States. With respect to such enforcement action, the Agency will rely on Federal sanctions, Federal inspection authorities, and the Federal Administrative Procedures Act rather than the authorized State analogues to these requirements. Therefore, the Agency does not intend to codify for purposes of enforcement such particular, authorized Wisconsin enforcement authorities. Section 272.2501(a)(2) lists those authorized Wisconsin authorities that would fall into this category.

The public also needs to be aware that some provisions of the State's hazardous waste management program are not part of the federally authorized State program. These non-authorized provisions are not part of the RCRA Subtitle C program because they are "broader in scope" than RCRA Subtitle C. See 40 CFR 271.1(j). As a result, State provisions which are "broader in scope" than the Federal program are not codified for purposes of enforcement in Part 272. Section 272.2501(a)(3) of the intended codification simply lists for reference and clarity the Wisconsin statutory and regulatory provisions which are "broader in scope" than the Federal program and which are not, therefore, part of the authorized program

being codified. "Broader in scope" provisions will not be enforced by EPA; the State, however, will continue to enforce such provisions.

As noted above, the Agency is not amending Part 272 to include HSWA requirements and prohibitions that are immediately effective in Wisconsin and other States. Section 3006(g) of RCRA provides that any requirement or prohibition of HSWA (including implementing regulations) takes effect in authorized States at the same time that it takes effect in non-authorized States. Thus, EPA has immediate authority to implement a HSWA requirement or prohibition once it is effective. A HSWA requirement or prohibition supersedes any less stringent or inconsistent State provision which may have been previously authorized by EPA (See 50 FR 28702, July 15, 1985).

Because of the vast number of HSWA statutory and regulatory requirements taking effect over the next few years, EPA expects that many previously authorized and codified State provisions will be affected. The States are required to revise their programs to adopt the HSWA requirements and prohibitions by the deadlines set forth in 40 CFR 271.21, and then to seek authorization for those revisions pursuant to Part 271. EPA expects that the States will be modifying their programs substantially and repeatedly. Instead of amending the Part 272 codification every time a new HSWA provision takes effect under the authority of RCRA 3006(g), EPA will wait until the State receives authorization for its analog to the new HSWA provision before amending the State's Part 272 codification. In the interim, persons wanting to know whether a HSWA requirement or prohibition is in effect should refer to 40 CFR 271.1(j), as amended, which lists each such provision.

The codification of State authorized programs in the CFR should substantially enhance the public's ability to discern the current status of the authorized State program and clarify the extent of Federal enforcement authority. This will be particularly true as more State program revisions to adopt HSWA provisions are authorized.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this action will not have a significant economic impact on a substantial number of small entities. It intends to codify the decision already made to authorize Wisconsin's program and has no separate effect on handlers of hazardous waste in the State or upon small entities. This rule,

therefore, does not require a regulatory flexibility analysis.

Compliance With Executive Order 12291

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, Federal agencies must consider the paperwork burden imposed by any information request contained in a proposed rule or a final rule. This rule will not impose any information requirements upon the regulated community.

List of Subjects in 40 CFR Part 272

Administrative practice and procedure, Confidential business information, Hazardous waste transportation, Hazardous waste, Incorporation by reference, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Dated: November 30, 1988.

Thomas E. Yeates,
Acting Regional Administrator.

For the reasons set forth in the preamble, 40 CFR Part 272 is amended as follows:

PART 272—APPROVED STATE HAZARDOUS WASTE MANAGEMENT PROGRAMS

1. The authority for Part 272 continues to read as follows:

Authority: Secs. 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6912(a), 6926, and 6974(b).

2. The table of contents for Subpart YY of Part 272 is revised to read as follows:

Subpart YY—Wisconsin

272.2500 State Authorization.
272.2501 State-Administered Program: Final Authorization.
272.2502-272.2549 [Reserved]

3. 40 CFR Part 272, Subpart YY is amended by adding §§ 272.2500 and 272.2501 to read as follows:

Subpart YY—Wisconsin

§ 272.2500 State authorization.

(a) The State of Wisconsin is authorized to administer and enforce a hazardous waste management program in lieu of the Federal program under Subtitle C of the Resource Conservation

and Recovery Act of 1976 (RCRA), 42 U.S.C. 6921 *et seq.*, subject to the Hazardous and Solid Waste Amendments of 1984 (HSWA), (Pub. L. 98-616, Nov. 8, 1984), 42 U.S.C. 6926 (c) and (g)). The Federal program for which a State may receive authorization is defined in 40 CFR Part 271. The State's program, as administered by the Wisconsin Department of Natural Resources was approved by EPA pursuant to 42 U.S.C. 6926(b) and Part 271 of this Chapter. EPA's approval was effective on January 31, 1986 (see 51 FR 3783).

(b) Wisconsin is not authorized to implement any HSWA requirements in lieu of EPA unless EPA has explicitly indicated its intent to allow such action in a Federal Register notice granting Wisconsin authorization.

(c) Wisconsin has primary responsibility for enforcing its hazardous waste program. However, EPA retains the authority to exercise its enforcement authorities under sections 3007, 3008, 3013, and 7003 of RCRA, 42 U.S.C. 6927, 6928, 6934, and 6973, as well as under other Federal laws and regulations.

(d) Wisconsin must revise its approved program to adopt new changes to the Federal Subtitle C program in accordance with section 3006(b) of RCRA and 40 CFR Part 271, Subpart A. Wisconsin must seek final authorization for all program revisions pursuant to section 3006(b) of RCRA but, on a temporary basis, may seek interim authorization for revisions required by HSWA pursuant to section 3006(g) of RCRA, 42 U.S.C. 6926(g). If Wisconsin obtains final authorization for the revised requirements pursuant to section 3006(g), the newly authorized provisions will be listed in 272.2501 of this Subpart. If Wisconsin obtains interim authorization for the revised requirements pursuant to section 3006(g), the newly authorized provisions will be listed in 272.2502.

§ 272.2501 State-administered program: Final authorization.

Pursuant to section 3006(b) of RCRA, 42 U.S.C. 6926(b): Wisconsin has final authorization for the following elements submitted to EPA in Wisconsin's program application for final authorization and approved by EPA effective on January 31, 1986.

(a) *State Statutes and Regulations.* (1) The following Wisconsin statutory provisions and regulations are incorporated by reference and codified as part of the hazardous waste management program under Subtitle C

of RCRA, 42 U.S.C. 6921 *et seq.* This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a).

(i) Wisconsin Statutes, Volume 3, Sections: 144.01; 144.43-433; 144.44 (except 144.44(4)(a)); 144.441(1)-(2); 144.441(3) (b), (d), (f), and (g); 144.441(4) (a) and (c)-(g); 144.441(5) (b)-(d); 144.441(6); 144.442 (1), (4)-(11); 144.443; 144.444; 144.60-144.63; and, 144.64 (2) and (3) (except for 144.64(2)(e)(1)) (1985-86). Copies of the Wisconsin statutes that are incorporated by reference in this paragraph are available from the Revisor of Statutes, Suite 904, 30 West Mifflin Street, Madison, Wisconsin 53703.

(ii) Wisconsin Administrative Code, Volume 12, Sections NR: 181.01-181.02; 181.04-181.05; 181.06(3)-181.07; 181.09; 181.11-181.12(3); 181.12(4)(b)-181.27; 181.31(2)-181.47; 181.49-181.54; 181.55(2); 181.55(4)-181.55(10); Appendix 1; and Appendix 2 (effective July 1, 1985). Copies of the Wisconsin regulations that are incorporated by reference in this paragraph are available from the Revisor of Statutes, Suite 904, 30 West Mifflin Street, Madison, Wisconsin 53703.

(2) The following statutory provisions concerning State enforcement, although not codified herein, are part of the authorized State program. Wisconsin Statutes, Volume 1, Sections: 19.21; 19.31: Wisconsin Statutes, Volume 3, Sections: 144.69-144.72; 144.73-144.74; 144.76 (2) and (3); Wisconsin Statutes, Volume 4, Sections: 227.07; 227.09; 227.14; and Wisconsin Statutes, Volume 5, Section 803.09 (1985-86).

(3) The following statutory and regulatory provisions are broader in scope than the Federal program, are not part of the authorized program, and are not codified herein for enforcement purposes.

(i) Wisconsin Statutes, Volume 3, Sections: 144.434-144.439; 144.41; 144.44(4)(a); 144.441(3) (a) (c) and (e); 144.441(4) (b) and (h); 144.441(5)(a); 144.441(7); 144.442 (2) and (3); 144.445-144.48; 144.64(1); 144.64(2)(e)(1); 144.64(4); 144.645-144.68; 144.725; 144.75-144.76(1); and 144.76(4)-144.799(6) (1985-86).

(ii) Wisconsin Administrative Code, Volume 12, Sections NR: 181.06 (1) and (2); 181.08; 181.12(4)(a); 181.31(1); 181.48; and 181.55 (1) and (3) (effective July 1, 1985).

(b) *Memorandum of Agreement.* The Memorandum of Agreement between EPA Region V and the Wisconsin Department of Natural Resources,

signed by the EPA Regional Administrator on January 17, 1986, is codified as part of the authorized hazardous waste management program under Subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

(c) *Statement of Legal Authority.* (1) "Attorney General's Statement for Final Authorization" signed by the Attorney General of Wisconsin on July 23, 1985 is codified as part of the authorized hazardous waste management program under Subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

(2) Supplemental "Attorney General's Statement for Final Authorization", signed by the Attorney General of Wisconsin on December 27, 1985, is codified as part of the authorized hazardous waste management program under Subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

(d) *Program Description.* The Program Description and any other materials submitted as part of the original application or as supplements thereto are codified as part of the authorized hazardous waste management program under Subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

[FR Doc. 89-3810 Filed 2-17-89; 8:45 am]

BILLING CODE 6580-50-M

40 CFR Part 300

[FRL-3523-1]

National Oil and Hazardous Substances Contingency Plan; National Priorities List Update

AGENCY: Environmental Protection Agency.

ACTION: Notice of deletion of a site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA) Region IV announces the deletion of the Parramore Surplus Company site from the National Priorities List (NPL). The NPL is Appendix B to the National Oil and Hazardous Substances Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended. EPA and the State of Florida have determined that no further fund-finance remedial actions are appropriate at these sites and actions taken to date are protective of the public health, welfare, and the environment.

EFFECTIVE DATE: February 21, 1989.

FOR FURTHER INFORMATION CONTACT: Patrick M. Tobin, Director, Waste Management Division, c/o Beverly E. Houston, Site Project Manager, 345 Courtland Street NE., Atlanta, Georgia 30365.

SUPPLEMENTARY INFORMATION: The EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment and maintains the NPL as the list of those sites. Sites on the NPL may be the subject of Hazardous Substance Response Trust Fund (Fund) financed remedial actions. Any site deleted from the NPL remains eligible for Fund-financed remedial actions in the unlikely event that conditions at the site warrant such action. Section 300.66(c)(8) of the NCP states that Fund-financed actions may be taken at sites deleted from the NPL. Deletion of a site from the NPL does not affect responsible party liability or impede agency efforts to recover costs associated with response efforts.

The site EPA deletes from the NPL is Parramore Surplus, Florida. An explanation of the criteria for deleting sites from the NPL was presented in section II of the November 29, 1988, Notice of Intent to Delete (53 FR 8223). A description of the Parramore Surplus Site, Florida, and how it meets the criteria for deletion was presented in section IV of that notice.

The closing date for comments on the Notice of Intent to Delete was December 24, 1988. No comments were received concerning this site.

List of Subjects in 40 CFR Part 300

Hazardous waste.

Dated: February 2, 1989.

Lee A. DeHihns, III,
Acting Regional Administrator.

PART 300—[AMENDED]

1. The authority citation for Part 300 continues to read as follows.

Authority: Section 105, Pub. L. 96-510, 94 Stat. 2764, 42 U.S.C. 9605 and sec. 311(c)(2), Pub. L. 92-500 as amended, 86 Stat. 865, 33 U.S.C. 1321(c)(2); E.O. 12316, 46 FR 42237; E.O. 11735, 38 FR 21243.

Appendix B—[Amended]

2. The NPL in 40 CFR Part 300, Appendix B is amended as follows. In Group 10, remove the following entry and move up the other entries accordingly: Parramore Surplus, Mount Pleasant, Florida.

[FR Doc. 89-3890 Filed 2-17-89; 8:45 am]

BILLING CODE 6540-60-M

DEPARTMENT OF DEFENSE

48 CFR Parts 204, 205, 207, 213, 215, 216, 219, 223, 225, 235, 245, 252, and Appendix N

[Defense Acquisition Circ. (DAC) 88-4]

Department of Defense Federal Acquisition Regulation Supplement; Regulatory and Miscellaneous Amendments

AGENCY: Department of Defense (DoD).

ACTION: Final rules and interim rules as indicated.

SUMMARY: Defense Acquisition Circular (DAC) 88-4 amends the DoD FAR Supplement (DFARS) with respect to safeguarding conventional arms, ammunition, and explosives (AA&E) within industry; thresholds for synopses of contract actions; release of information to cooperative agreement holders; spares acquisition integrated with production (SAIP); "four-step" source selection procedures; restrictions on award of fixed-price type contracts for development programs; deletion of requirement for Certificate of Competency (CoC) Quarterly Report; restrictions on the acquisition of valves and machine tools from foreign sources; editorial corrections, change of activity address, and updated editions of DD Forms 1425 and 1597. This DAC also contains an information item with respect to multiyear procurements; and it contains corrections to DAC 88-2.

DATES: *Effective Date:* February 28, 1989, unless otherwise noted in the Supplementary Information.

Comment Date: Comments are due no later than March 23, 1989.

FOR FURTHER INFORMATION CONTACT: Mr. Charles W. Lloyd, Executive Secretary, Defense Acquisition Regulatory Council, ODASD(P)/DARS, OASD(P&L), c/o OUSD(A)(M&RS), Room 3D139, The Pentagon, Washington, DC 20301-3062, telephone (202) 697-7266.

SUPPLEMENTARY INFORMATION:

A. Background

The DoD FAR Supplement is codified in Chapter 2, Title 48 of the Code of Federal Regulations.

The October 1, 1987, revision of the CFR is the most recent edition of that title. It reflects amendments to the 1986 edition of the DoD FAR Supplement made by Defense Acquisition Circulars 86-1 through 86-5. Amendments made by DACs 86-6 through 86-16 were published in the *Federal Register* at 53 FR 38171, September 29, 1988, and will

be included in the October 1, 1988, revision of the CFR.

B. Public Comments

DAC 88-4, Item I

Public comments were not submitted with respect to this item because it is provided for information purposes.

DAC 88-4, Items II, III, IV, VI, VII, VIII, and X

Public comments were not solicited with respect to these revisions since such revisions do not alter the substantive meaning of any coverage in the DFARS having a significant impact on contractors or offerors, or do not have a significant effect beyond agency internal operating procedures. However, comments from small entities concerning the affected DoD FAR Supplement coverage will be considered. Please cite DAR Case 89-610D.

DAC 88-4, Item V

A proposed rule was published in the *Federal Register* on February 29, 1988 (53 FR 6016), and public comments were solicited. Comments received were considered in the development of the final rule.

DAC 88-4, Item IX

Comments are invited. This interim rule is published prior to receipt of comments to accommodate legislation which required an effective date of October 1, 1988. Interested parties should submit written comments to be considered in developing a final rule on or before (30 days from date of publication) to: Defense Acquisition Regulatory Council, ATTN: Mr. Charles W. Lloyd, Executive Secretary, DAR Council, ODASD(P)/DARS, c/o OUSD(A)(M&RS), Room 3D139, The Pentagon, Washington, DC 20301-3062. Please cite DAR Case 88-307 in all correspondence related to this subject.

DAC 88-4, Items XI through XIV

Public comments were not solicited with respect to these items because they provide updated editions of DD Forms, an activity address change, and corrections to DAC #88-2.

C. Regulatory Flexibility Act

DAC 88-4, Items I through IV, VI, VII, VIII, and X through XIV

Public comments were not solicited with respect to these items. The

Regulatory Flexibility Act does not apply.

DAC 88-4, Item V

This final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act of 1980, 5 U.S.C. 601, et seq., because small entities generally do not receive awards for full-scale development contracts and associated spare parts orders. A proposed rule was published in the *Federal Register* on February 29, 1988 (53 FR 6016), and public comments were solicited. Comments received were considered in the development of the final rule. No comments were received that addressed the Regulatory Flexibility Act statement published on February 29, 1988.

DAC 88-4, Item IX

This interim rule is not expected to have a significant economic impact upon a substantial number of small entities within the meaning of the Regulatory Flexibility Act of 1980, 5 U.S.C. 601, et seq., because this coverage can only limit procurement of valves and machine tools not manufactured in the United States or Canada. An Initial Regulatory Flexibility Analysis has therefore not been performed. Comments are invited from small business and other interested parties. Comments from small entities concerning the affected DFARS Subpart will also be considered in accordance with Section 610 of the Act. Such comments must be submitted separately and cite DAR Case 89-610D.

D. Paperwork Reduction Act

DAC 88-4, Items I through XIV

The Paperwork Reduction Act does not apply because these rules do not contain information collection requirements which require the approval of OMB under 44 U.S.C. 3501 et seq.

E. Determination to Issue an Interim Regulation

DAC 88-4, Item IX

A determination has been made under the authority of the Secretary of Defense that this coverage be issued as an interim rule. This action is necessary to implement section 822 of the FY 89 DoD Authorization Act, Pub. L. 100-456 (enacted September 29, 1988), and section 8089 of the FY 89 DoD Appropriations Act, Pub. L. 100-463 (enacted October 1, 1988).

List of Subjects in 48 CFR Parts 204, 205, 207, 213, 215, 216, 219, 223, 225, 235, 245, 252, and Appendix N

Government procurement.
Charles W. Lloyd,
Executive Secretary, Defense Acquisition Regulatory Council.
[Defense Acquisition Circular No. 88-4]
January 31, 1989.

Unless otherwise specified, all DoD FAR Supplement and other directive material contained in this Defense Acquisition Circular is effective February 28, 1989.

Defense Acquisition Circular (DAC) 88-4 amends the DoD Federal Acquisition Regulation Supplement (DFARS) 1988 Edition and prescribes procedures to be followed. The following is a summary of the amendments and procedures.

Item I—Multiyear Procurements

Section 8031 of the Fiscal Year 1989 Defense Appropriations Act, Pub. L. 100-463, contains restrictions on the initiation of multiyear contracts. In addition to restrictions already incorporated into the DFARS at 217.103-70, the Act provides that: (1) Fiscal Year 1989 funds shall not be used to initiate multiyear contracts without the use of a present value analysis to determine the lowest cost to the Government of a multiyear contract compared to annual procurements, and (2) no multiyear program contract approved by Congress shall be terminated or canceled without a 10-day prior notification to Congress.

Item II—Safeguarding Conventional Arms, Ammunition and Explosives (AA&E) Within Industry (Final Rule)

DAC #86-14, Item III, dated May 15, 1988, issued changes to DFARS coverage to provide guidance to ensure that the physical security standards prescribed by DoDI 5220.30 are incorporated within DoD contracts involving the manufacture or use of arms, ammunition, and explosives. These changes became effective October 1, 1987, to expire on September 30, 1988, and were extended to January 1, 1989. DoD Instruction 5220.30 has been superseded by DoD Manual DoD 5100.76-M which includes necessary policies with respect to this subject. The coverage issued in DAC #86-14 is deleted from the DFARS.

Item III—Thresholds for Synopses of Contract Actions (Final Rule)

The thresholds in DFARS 205.303(a) and (S-70) for submission of the DD-LA-(AR) 1279 report and Congressional notification, respectively, of

procurements exceeding \$3 million are raised to \$5 million, for contracts issued after February 28, 1989.

Item IV—Release of Information to Cooperative Agreement Holders (Final Rule)

DFARS 205.470 and the clause at 252.205-7000 are revised to include economic enterprises as defined in Section 3(e) of the Indian Financing Act of 1974 (Pub. L. 93-362; 25 U.S.C. 2452(e)), whether such economic enterprise is organized for profit or nonprofit purposes.

Item V—Spares Acquisition Integrated With Production (SAIP) (Final Rule)

DFARS 207.105(b)(S-70)(xi) and 217.7205 have been added to implement DoDI 4245.12 concerning Spares Acquisition Integrated With Production (SAIP). The existing subparagraph (xi) is renumbered (xii).

Item VI—"Four-Step" Source Selection Procedures (Final Rule)

DFARS 215.613 is revised to remove a conflict with FAR 15.6.

Item VII—Restrictions on Award of Fixed-Price Type Contracts for Development Programs (Final Rule)

Section 8056, Pub. L. 100-463 (as amended by Section 105, Pub. L. 100-526), and Section 807, Pub. L. 100-356, contain restrictions on the award of fixed-price type contracts for development programs. These restrictions are implemented at DFARS 235.006(S-70). A cross-reference is also included at DFARS 216.201(S-70).

Item VIII—Deletion of Requirement for Certificate of Competency (CoC) Quarterly Report (Final Rule)

DFARS 219.670 which requires contracting activities to inform the Department Director or Staff Director of Small and Disadvantaged Business Utilization, in writing, and on a quarterly basis, of all CoC cases initiated during that quarter, is deleted. Individual Departmental requirements may be established should any Service or agency require this data or similar data from subordinate activities.

Item IX—Restrictions on the Acquisition of Valves and Machine Tools from Foreign Sources (Interim Rule)

DFARS Subparts 225.70 and 252.225 are revised to (1) modify the existing definition, policy and clause concerning "machine tools" by adding three Federal Supply Classes to the list; (2) add a definition of "valves"; (3) add a restriction on the acquisition of valves

from foreign sources; and (4) add a new clause to implement the valves restriction.

These revisions implement Section 822 of the FY 89 DoD Authorization Act, Pub. L. 100-456 (enacted September 29, 1988), which amended Title 10 of the United States Code by adding Section 2507, restricting the acquisition of foreign valves and machine tools for fiscal years 1989, 1990, and 1991. They also implement Section 8069 of the FY 89 Appropriations Act, Pub. L. 100-463 (enacted October 1, 1988), which imposes restrictions on the acquisition of specified classes of foreign machine tools when FY 89 funds are used.

Contracting officers should note that the FY 89 Appropriations Act restriction on the acquisition of the listed classes of machine tools provides less discretionary authority to seek waivers from the restrictions than does 10 U.S.C. 2507.

The restrictions were effective upon dates of enactment of the Acts. Therefore, the revisions included in this DAC are effective October 1, 1988.

Item X—Editorial Corrections

(a) DFARS 213.507(a)(1)(xi) is revised to delete the referenced clause which is nonexistent.

(b) DFARS 216.502(S-70) is revised to delete duplicate coverage that appears in paragraph (S-70)(4).

(c) DFARS 245.505-14(a)(1)(vii) is revised to reflect the correct FAR reference.

Item XI—DD Form 1425, Specifications and Standards Requisition

An updated edition of DD Form 1425 is provided.

Note.— Department of Defense Forms are not published in the Federal Register or the Code of Federal Regulations. A list containing DD Form Numbers and Titles follows Section 253.270.

Item XII—DD Form 1597, Contract Closeout Check-List

DD Form 1597 is revised to add a requirement for the Administrative Contracting Officer (ACO) to verify that a Final Subcontracting Plan Report has been submitted. This addition will help ensure that the review requirement of FAR 19.706 is met. The form is also updated to reflect the current FAR 4.804-1 milestones for closeout of contracts.

Item XIII—Appendix N—Activity Address Numbers

Appendix N is revised to reflect a change of address as the result of transfer of plant cognizance at LTV from the Navy to the Air Force.

Item XIV—Corrections to DAC #88-2

(a) DAC #88-2, Item XIV appearing at 53 FR 50412, December 15, 1988, is corrected to change the reference "235.270" to read "237.270".

Adoption of Amendments

Therefore, the DoD FAR Supplement is amended as set forth below.

1. The authority for 48 CFR Parts 204, 205, 207, 213, 215, 216, 219, 223, 225, 235, 245, 252, and Appendix N continues to read as follows:

1A. In the preamble, DAC #88-2, Item XIV appearing at 53 FR 50412, December 15, 1988 is corrected to change the reference "235.270" to read "237.270".

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, and DoD FAR Supplement 201.301.

PART 204—ADMINISTRATIVE MATTERS

204.202 [Amended]

2. Section 204.202 is amended by removing paragraph (c)(6).

Subpart 204.4 [Reserved]

204.470 [Removed]

3. Subpart 204.4 is amended by removing the title of the Subpart and marking it "RESERVED"; and by removing section 204.470.

PART 205—PUBLICIZING CONTRACT ACTIONS

205.303 [Amended]

4. Section 205.303 is amended by substituting in the first sentence of paragraph (a) and in paragraph (S-70) the dollar figure "\$5 million" in lieu of the dollar figure "\$3 million" in both places.

205.470 [Amended]

5. Section 205.470 is amended by changing the period to a comma at the end of paragraph (a) and adding the words "whether such economic enterprise is organized for profit or nonprofit purposes."

PART 207—ACQUISITION PLANNING

6. Section 207.105 is amended by redesignating in paragraph (b) (5-70) the existing paragraph (xi) to paragraph (xii) and adding a new paragraph (xi) to read as follows:

207.105 Contents of written acquisition plans.

* * * * *

(b)(S-70) * * *
(xi) *Spares Acquisition Integrated With Production (SAIP)*. Specifically address consideration of the SAIP concept and plans for implementation

during the full-scale development and production phases of the program. (See 217.72-5 and DoDI 4245.12.)

* * * * *

PART 213—SMALL PURCHASE AND OTHER SIMPLIFIED PURCHASE PROCEDURES

213.507 [Removed and Reserved]

7. Section 213.507 is amended by removing in paragraph (a)(1)(xi) the text and marking the paragraph "Reserved."

PART 215—CONTRACTING BY NEGOTIATION

215.613 [Amended]

8. Section 215.613 is amended by removing in paragraph (a) the first and second sentences of paragraph (a)(2).

PART 216—TYPES OF CONTRACTS

Subpart 216.2 Fixed-Price Contracts

9. Section 216.201 is added to read as follows:

216.201 General.

(S-70) For development programs, see 235.006(S-70).

216.502 [Amended]

10. Section 216.502 is amended by placing in the first sentence a colon after the word "are" and removing the remainder of the introductory text beginning with the word "that".

PART 217—SPECIAL CONTRACTING METHODS

11. Section 217.7205 and §§ 217.7205-1 through 217.7205-4 are added to read as follows:

217.7205 Spares acquisition integrated with production (SAIP).

217.7205-1 Scope.

This section prescribes policy and procedures for implementing SAIP in selected acquisitions.

217.7205-2 Definition.

Spares Acquisition Integrated with Production (SAIP) is a technique used to acquire spare and/or repair parts combined with procurement of identical items produced for the primary system, subsystem, or equipment.

217.7205-3 Policy.

SAIP shall be considered for the acquisition of spare and/or repair parts when the end item will be or is in production. DoDI 4245.12, Spares Acquisition Integrated with Production (SAIP), explains the criteria to be considered by DoD acquisition

managers in selecting items for SAIP applications.

217.7205-4 Procedures.

When SAIP applies, it shall be included in the contract and subcontracts as deemed appropriate along with any special provisions needed to tailor the acquisition for administering the SAIP Program.

(a) Full-scale development contracts may require the contractor to:

(1) Recommend SAIP candidates by preparing and submitting a Recommended Spare Parts List (RSPL) for SAIP. This list must be submitted in sufficient time to allow the Government to process and integrate orders;

(2) Plan for production rate tooling to provide for spares requirements; and

(3) When submitting the RSPL, identify those items that can be ordered directly from the actual manufacturer. Such items are candidates for direct procurement by the Government.

(b) Production solicitations and contracts may require the contractor to:

(1) Update or submit information in (a) above;

(2) Identify SAIP ordering windows;

(3) Combine material orders and manufacturing actions for SAIP items with material orders and manufacturing actions for identical items used in the production of a system or subsystem when a firm order for SAIP items is received.

PART 219—SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS CONCERN

219.670 [Removed]

12. Section 219.670 is removed.

PART 223—ENVIRONMENT, CONSERVATION, AND OCCUPATIONAL SAFETY

Subpart 223.71 [Removed and Reserved]

223.7100 through 223.7105 [Removed]

13. Subpart 223.71 is amended by removing the title of the subpart and marking it "Reserved"; and by removing sections 223.7100 through 223.7105.

PART 225—FOREIGN ACQUISITION

Subpart 225.70—[Amended]

14. Subpart 225.70 is amended by changing the title to read "Authorization and Appropriations Acts Restrictions" in lieu of the title "Appropriations Act Restrictions".

225.7000 [Amended]

15. Section 225.7000 is amended by adding in the first sentence between the

word "implements" and the word "the" the words "restrictions applicable to"; by adding in the first sentence between the word "the" and the word "Defense" the words "Department of"; by removing in the first sentence between the word "Defense" and the word "on" the words "Appropriations Act restriction"; by substituting in the second sentence between the word "Appropriations" and the word "as" the words "and Authorization Acts" in lieu of the word "Act"; by substituting at the end of the second sentence the words "these restrictions" in lieu of the words "such restriction"; by removing in the penultimate sentence between the parenthetical reference "(see 225.7009)," and the word "the" the word "and"; and by changing the period to a comma at the end of the penultimate sentence and adding the words "and the restriction at 10 U.S.C. 2507 restriction on the acquisition of valves not manufactured in the United States or Canada which are used in piping for naval surface ships and submarines (see 225.7012)."

225.7001 [Amended]

16. Section 225.7001 is amended by adding at the beginning of the listing preceding the listing "FSC 3408" the listing "FSC 3405"—Saw and Filing Machines"; by adding in the listing between the listing "FSC 3433" and the listing "FSC 3441" the listing "FSC 3438"—Miscellaneous Welding Equipment"; by adding in the listing between the listing "FSC 3443" and the listing "FSC 3446" the listing "FSC 3445"—Punching and Shearing Machines"; by adding at the end of the listing a footnote reading: "Machine tools in these FSCs are not subject to the restriction of 225.7008 unless purchased using FY 89 funds"; by relocating the definition "United States" to the end of the section following paragraph (d); and by adding at the end of the section in alphabetical sequence the definition: "Valves" means those powered and non-powered valves listed in Federal Supply Classes 4810 (valves, powered) and 4820 (valves, non-powered) used in piping for naval surface ships and submarines."

225.7008 [Amended]

17. Section 225.7008 is amended by revising paragraphs (a) and (b); by substituting in paragraph (d)(1) between the word "or" and the word "funds" the word "subsequent" in lieu of the words "FY 88"; by redesignating the existing paragraph (e) as paragraph (f); and adding a new paragraph (e) to read as follows:

225.7008 Restriction on acquisition of machine tools.

(a) Pub. L. 99-591 (FY 87

Appropriations Act) and subsequent laws appropriating funds for the Department of Defense have provided restrictions on the acquisition of the classes of machine tools set forth in 225.7001 for use in any Government-owned facility or property under control of the Department of Defense if these machine tools were not manufactured in the United States or Canada. Under contracts obligating appropriations of these Acts, contractors may not procure the classes of machine tools set forth in 225.7001 unless manufactured in the United States or Canada if title to these machine tools will vest in the Government.

(b) When adequate supplies of the classifications of machine tools set forth in 225.7001 manufactured in the United States or Canada are not available to meet the Department of Defense requirements on a timely basis, the procurement restriction may be waived for procurements of \$25,000 or more by the Head of the Agency responsible for the procurement on a case-by-case basis. For individual procurements under \$25,000, the procurement restriction may be waived on the same basis by the Chief of the Contracting Office concerned. These authorities may not be redelegated. Requests for waivers will contain a full explanation of the facts supporting the waiver and will be submitted in accordance with Departmental procedures.

* * * * *

(e) The restriction of 225.7008 does not apply to FSCs 3405, 3438, and 3445, when only FY 87 and/or FY 88 funds will be obligated for machine tools. In such cases, the clause at 252.225-7023, "Restriction on Acquisition of Foreign Machine Tools" may be modified to delete reference to FSCs 3405, 3438 and 3445.

* * * * *

225.7011 [Reserved]

18. Section 225.7011 is added and the section marked "Reserved."

19. Section 225.7012 is added to read as follows:

225.7012 Restriction on acquisition of powered and non-powered valves.

(a) 10 U.S.C. 2507 provides that during fiscal years 1989, 1990 and 1991, funds appropriated or otherwise made available to the Department of Defense may not be used to enter into a contract for powered and non-powered valves in Federal Supply Classes 4810 and 4820 not manufactured in the United States or

Canada which are used in piping for naval surface ships and submarines.

(b) The Head of the Agency responsible for the procurement may waive the restriction of paragraph (a) above on a case-by-case basis if he determines that any of the following apply:

(1) The restriction would cause unreasonable costs or delays to be incurred.

(2) United States producers of the item would not be jeopardized by competition from a foreign country and that country does not discriminate against defense items produced in the United States to a greater degree than the United States discriminates against defense items produced in that country.

(3) Satisfactory quality items manufactured in the United States or Canada are not available.

(4) The restriction would impede cooperative programs entered into between the Department of Defense and a foreign country and that country does not discriminate against defense items produced in the United States to a greater degree than the United States discriminates against defense items produced in that country.

(5) The restriction would result in the existence of only one United States or Canadian source for the item.

This authority may not be redelegated. Requests for waiver will contain a full explanation of the facts supporting the waiver and will be submitted in accordance with Departmental procedures.

(c) The restriction of paragraph (a) above has been waived for procurements less than \$25,000 when simplified small purchase procedures are being used.

(d) A valve shall be considered to be of United States or Canadian origin if it is manufactured in the United States or Canada and the cost of its components manufactured in the United States or Canada exceeds 50 percent of the cost of all its components. The cost of components shall include transportation costs to the place of incorporation into the end product and duty (whether or not a duty-free entry certificate may be issued).

(e) The clause at 252.225-7024, "Restriction on Acquisition of Foreign Valves", shall be inserted in all solicitations and contracts for valves as defined at 225.7001 that obligate FY 89, 90, or 91 funds, except for procurements under \$25,000 when simplified small purchase procedures are being used.

(f) When valves are the only items being procured, do not include any of the clauses at 252.225-7000, 252.225-

7001, 252.225-7005, or 252.225-7006. If valves are not the only items being procured, include the clauses at 252.225-7000, 252.225-7001, 252.225-7005, and 252.225-7006, as appropriate.

PART 235—RESEARCH AND DEVELOPMENT CONTRACTING

20. Section 235.006 is added to read as follows:

235.006 Contracting Methods and Contract Type.

(S-70) *Fixed-Price Type Development Contracts.*

(1) A fixed-price type contract (see FAR 16.201) may be awarded for a development program effort only if:

(i) The level of program risk permits realistic pricing;

(ii) The use of a fixed-price type contract permits an equitable and sensible allocation of program risk between the United States and the contractor; and

(iii) Prior to award, the contracting officer determines in writing that the criteria in paragraphs (S-70)(1) (i) and (ii) above have been met and that the fixed-price type contract selected is appropriate (but see paragraph (S-70)(2) below).

(2) A firm fixed-price development contract (see FAR 16.202) over \$10,000,000 for development of a major system (as defined in FAR 34.001), or a subsystem thereof, may be awarded only if its use is consistent with the criteria in paragraphs (S-70)(1) (i) and (ii) above and a determination authorizing its use is made by the Under Secretary of Defense for Acquisition (USD(A)) or designee.

PART 245—GOVERNMENT PROPERTY

245.505-14 [Amended]

21. Section 245.505-14 is amended by substituting at the end of paragraph (a)(1)(vii) the reference "FAR 45.301" in lieu of the reference "245.301".

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

252.205-7000 [Amended]

22. Section 252.205-7000 is amended by changing the date of the clause to read "(FEB 1989)" in lieu of "(MAR 1988)"; and by adding in paragraph (a) of the clause between the citation "25 U.S.C. 1452(e))" and the word "which" the words ", whether such economic enterprise is organized for profit or nonprofit purposes,".

252.223-7003 [Removed and Reserved]

23. Section 252.223-7003 is amended by removing the text and marking the section "Reserved."

252.225-7023 [Amended]

24. Section 252.225-7023 is amended by changing the date of the clause to read "JAN 1989" in lieu of "APR 1988"; by adding at the beginning of the listing preceding the listing "FSC 3408" the listing "FSC 3405"—Saw and Filing Machines"; by adding in the listing between the listing "FSC 3433" and the listing "FSC 3441" the listing "FSC 3438"—Miscellaneous Welding Equipment"; by adding in the listing between the listing "FSC 3443" and the listing "FSC 3446" the listing "FSC 3445"—Punching and Shearing Machines"; and by adding at the end of the listing a footnote reading: "Machine tools in these FSCs are not subject to the restriction of 225.7008 unless purchased using FY 89 funds."

25. Section 252.225-7024 is added to read as follows:

252.225-7024 Restriction on Acquisition of Foreign Valves.

As prescribed in 225.7012(e), insert the following clause.

Restriction on Acquisition of Foreign Valves (Jan 1989)

(a) The Contractor agrees that those valves used in piping for naval surface ships and submarines within Federal Supply Classifications 4810 (valves, powered) and 4820 (valves, non-powered) to be delivered as end items under this contract shall be of United States or Canadian origin.

(b) For the purpose of this clause, a valve shall be considered to be of United States or Canadian origin if (1) it is manufactured in the United States or Canada; and (2) the cost of its components manufactured in the United States or Canada exceeds fifty percent (50%) of the cost of all its components. The cost of components shall include transportation costs to the place of incorporation into the end item and duty (whether or not a duty-free entry certificate may be issued).
(End of clause)

Appendix N to Chapter 2—[Amended]

26. Appendix N is amended by removing between the listing "N63204, KV" and the listing "N63212" the listing "N63205, KW, QM—Naval Air Engineering Center Detachment, GSE, Naval Plant Representative Office, Vought Corporation, P.O. Box 5907, Dallas, TX 75222"; and by adding between the listing "F41800, T9" and the listing "F41999" the listing to read "F41853, WP— AFPRO LTV, LTV

Aerospace and Defense Co, P.O. Box 655907, Dallas, TX 75265-5907".

[FR Doc. 89-3722 Filed 2-17-89; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

[Docket No. 70355-7127]

Atlantic Tuna Fisheries

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of closure.

SUMMARY: NOAA issues this notice to close the fishery for Atlantic bluefin tuna conducted by longline vessels permitted in the Incidental Catch category and operating in the Atlantic Ocean regulatory area south of 36°00' N. latitude. Closure of this fishery is necessary because landings data indicate that the annual Atlantic bluefin tuna quota of 115 short tons (st) for this area will be attained by the effective date. The intent of this action is to prevent exceeding the annual quota established for this segment of the fishery and thereby maintain the United States' obligations to the International Commission for the Conservation of Atlantic Tunas under the Atlantic Tunas Convention Act.

EFFECTIVE DATES: 0001 hours local time, February 19, 1989 through December 31, 1989.

FOR FURTHER INFORMATION CONTACT: Kathi L. Rodrigues, 508-281-3600 (Extension 324).

SUPPLEMENTARY INFORMATION: Regulations promulgated under the authority of the Atlantic Tunas Convention Act (16 U.S.C. 971-971h) regulating fishing for Atlantic bluefin tuna by persons and vessels subject to U.S. jurisdiction were published in the *Federal Register* on October 25, 1985 (50 FR 43396).

Section 285.22(f)(1) of the regulations provides for an annual quota of 145 short tons (st) of Atlantic bluefin tuna to be taken by longline vessels permitted in the Incidental Catch category in the Regulatory Area. Of this amount, no more than 115 st may be taken in the area south of 36°00' N. latitude. The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), is required under § 285.20(b)(1) to monitor the catch and landing statistics for Atlantic bluefin tuna and, on the basis of these statistics, to project a date when the total catch will equal any quota under § 285.22. The Assistant Administrator is further required under § 285.20(b)(1) to publish a notice prohibiting the fishing for, or retention of, Atlantic bluefin tuna by those fishing in the category whose quota is projected to be met. The Assistant Administrator has determined, based on the reported landings of Atlantic bluefin tuna, the catch rate, and other available

information to date, that the annual quota of Atlantic bluefin tuna allocated to longline vessels permitted in the Incidental Catch category fishing south of 36°00' N. latitude (115 st) will be attained by 0001 hours local time, February 19, 1989. Fishing for or retention of any Atlantic bluefin tuna by these vessels in this area must cease at 0001 hours, local time, on February 19, 1989.

Longline vessels permitted in the Incidental Catch category fishing north of 36°00' N. latitude may continue to fish for and retain Atlantic bluefin tuna until the total annual quota of 145 st is achieved.

Notice of this action has been mailed to all Atlantic bluefin tuna dealers and vessel owners holding a valid vessel permit for this fishery.

Other Matters

This action is taken under the authority of 50 CFR 285.20, and is taken in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 285

Fisheries, Penalties, Reporting and recordkeeping requirements, Treaties. (16 U.S.C. 971 *et seq.*)

Dated: February 14, 1989.

Richard H. Schaefer,

Director of Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 89-3858 Filed 2-17-89; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register

Vol. 54, No. 33

Tuesday, February 21, 1989

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 54

[No. LS-89-101]

Changes in Fees for Federal Meat Grading and Certification Services

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Agricultural Marketing Service (AMS) proposes revising the hourly fee rates for voluntary Federal meat grading and certification services. The hourly fees will be adjusted by this proposed revision to reflect the increased cost of providing service. The proposed revision in the hourly fee rates is necessary to ensure that the Federal meat grading and certification program is operated on a financially self-supporting basis.

DATES: Comments must be received on or before March 23, 1989.

ADDRESS: Written comments may be mailed to Eugene M. Martin, Chief, Meat Grading and Certification Branch, Livestock and Seed Division, AMS, USDA, Rm. 2638-S, P.O. Box 96456, Washington, DC 20090-6456. (For further information regarding comments, see "Comments" under **SUPPLEMENTARY INFORMATION**.)

FOR FURTHER INFORMATION CONTACT: Eugene M. Martin, 202-382-1113.

SUPPLEMENTARY INFORMATION:

Regulatory Impact Analysis

This action was reviewed under the USDA procedures established to implement E.O. 12291 and was classified as a nonmajor proposed rule pursuant to section 1(b) (1), (2), and (3) of that Order. Accordingly, a regulatory impact analysis is not required. This action was also reviewed under the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601 *et seq.*) The Administrator of the Agricultural Marketing Service has

determined that this rule will not have a significant economic impact on a substantial number of small entities. The changes in the hourly fee rates are necessary to recover the costs of providing voluntary Federal meat grading and certification services. The cost per unit of meat grading and certification services to the industry will continue to be approximately \$0.0015 per pound.

Comments

Interested persons are invited to submit written comments concerning this proposed rule. Comments must be sent in duplicate to the Washington, DC, Meat Grading and Certification Branch and should bear a reference to the date and page number of this issue of the **Federal Register**. Comments submitted in reference to this document will be made available for public inspection during regular business hours.

Background

The Secretary of Agriculture is authorized by the Agricultural Marketing Act (AMA) of 1946, as amended, 7 U.S.C. 1621 *et seq.*, to provide voluntary Federal meat grading and certification services to facilitate the orderly marketing of meat and meat products and to enable consumers to obtain the quality of meat they desire. The AMA also provides for the collection of fees from users of Federal meat grading and certification services that are approximately equal to the costs of providing these services. The hourly fees for service are established by equitably distributing the projected annual program operating costs over the estimated hours of service—revenue hours—provided to users of the service. Program operating costs include salaries and fringe benefits of meat graders, supervision, travel, training, and all administrative costs of operating the program. Revenue hours include base hours—service performed between 6 a.m. and 6 p.m., Monday through Friday; premium hours—service performed after 6 p.m. and before 6 a.m., or in excess of 8 hours per day, Monday through Friday, 6 a.m. to 6 p.m., and anytime on Saturday or Sunday; and holiday hours—service performed on Federal legal holidays. As program operating costs and/or revenue hours change, the hourly fees must be adjusted to enable the program to remain financially self-supporting as required by law.

Since February 12, 1986, the date of the last hourly fee change, program operating costs have significantly increased. The major contributing factors have been two congressionally mandated salary increases for Federal employees—a 3-percent pay increase effective January 1, 1987, and a 2-percent pay increase effective January 1, 1988. Together, these pay increases have raised program costs by approximately \$700,000. In 1986, the Agency significantly reduced the program's operating costs by restructuring its headquarters and field offices and reducing other related overhead operating expenses. The restructuring and related cost reductions and ongoing improvements in operating efficiencies have allowed the program to absorb the \$700,000 pay increases in 1987 and 1988 and other inflationary increases since the last hourly fee change.

Although operating efficiency has improved, the program is unable to absorb any additional increases in program operating costs without corresponding increases in the hourly fee rate or significant reductions in program services. Employee salary and fringe benefits are major program costs that account for approximately 80 percent of the total operating budget. In fiscal year 1989, the Agency is faced with the following increases in program operating expenses: (1) A congressionally mandated, Governmentwide salary increase of 4.1 percent effective January 1, 1989; (2) a 28.3-percent increase in the Agency's contribution to the Federal Employees Health Benefits Program (applicable to all Government Agencies) effective January 1, 1989; (3) a 10-percent, Governmentwide increase in travel entitlements effective in October 1988; and (4) a projected inflationary cost increase of 3.8 percent for fiscal year 1989. The Agency has determined that due to the aforementioned increases in program operating costs in fiscal year 1989, the program will incur over an \$800,000 loss unless the hourly fee rates are appropriately adjusted.

The restructuring and related reduction in program operating costs implemented by the Agency in 1986 were accomplished without adversely affecting the Agency's ability to maintain the effectiveness, integrity, and credibility of national grading and certification services. However, any

further reductions in employee supervision, training, or travel at this time would affect the Agency's ability to ensure the continued accurate and uniform application of the U.S. grade standards and specifications nationwide. Any reductions in the accuracy or uniformity of service would, most likely, have an adverse impact on the orderly marketing of red meat and on the uniform identification of meat and meat products available to consumers.

In view of the foregoing considerations, the Agency proposes to increase the base hourly rate for commitment applicants for voluntary Federal meat grading and certification services from \$27.40 to \$28.80. A commitment applicant is a user of the service who agrees, by commitment or agreement memorandum, to the use of a meat grader for 8 consecutive hours per day, Monday through Friday, between the hours of 6 a.m. and 6 p.m., excluding legal holidays. The base hourly rate for noncommitment applicants for voluntary Federal meat grading and certification services would increase from \$29.80 to \$31.20 and would be charged to applicants who utilize a meat grader for 8 consecutive hours or less per day, Monday through Friday, between the hours of 6 a.m. and 6 p.m., excluding legal holidays. The premium hourly rate for all applicants would be increased from \$35.40 to \$36.80 and would be charged to users of the service for the hours when a meat grader is utilized in excess of 8 hours per day, between the hours of 6 a.m. and 6 p.m., and for hours worked from 6 p.m. to 6 a.m., Monday through Friday, and for any time worked on Saturday and Sunday, except on legal holidays. The holiday rate for all applicants would be increased from \$54.80 to \$57.60 and would be charged to users of the service for all hours worked on legal holidays.

Accordingly, the section of the regulations appearing in 7 CFR Part 54 relating to hourly fees for Federal meat grading and certification of meats, prepared meats, and meat products is proposed for revision as follows:

List of Subjects in 7 CFR Part 54

Meat and meat products, Grading and certification, Beef, Veal, Lamb, and Pork.

PART 54—MEATS, PREPARED MEATS, AND MEAT PRODUCTS (GRADING, CERTIFICATION, AND STANDARDS)

1. The authority citation for Part 54 continues to read as follows:

Authority: Agricultural Marketing Act of 1946, secs. 203, 205, as amended; 60 Stat. 1087, 1090, as amended (7 U.S.C. 1622, 1624).

§ 54.27 [Amended]

2. 7 CFR Part 54 is amended as follows:

(a) In § 54.27(a), sentence 3, change the following: \$29.80 to \$31.20; \$35.40 to \$36.80; and \$54.80 to \$57.60.

(b) In § 54.27(b), sentence 2, change the following: \$27.40 to \$28.80; \$35.40 to \$36.80; and \$54.80 to \$57.60.

Done at Washington, DC, on February 15, 1989.

J. Patrick Boyle,

Administrator.

[FR Doc. 89-3980 Filed 2-17-89; 8:45 am]

BILLING CODE 3410-02-M

Federal Crop Insurance Corporation

7 CFR Part 401

[Amdt. 47; Doc. No. 6063S]

General Crop Insurance Regulations; Canning and Processing Bean Endorsement

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to amend the General Crop Insurance Regulations (7 CFR Part 401), effective for the 1989 and succeeding crop years, to provide for a different end of insurance period for snap beans produced in the State of Utah insured under the Canning and Processing Bean Endorsement. The intended effect of this rule is to amend the policy for insuring beans to show a later end of insurance date which more nearly reflects the growing season of snap beans in Utah.

DATE: Written comments, data, and opinions on this proposed rule must be received by not later than March 23, 1989, to be sure of consideration.

ADDRESS: Written comments on this proposed rule should be sent to Peter F. Cole, Office of the Manager, Federal Crop Insurance Corporation, Room 4090, South Building, U.S. Department of Agriculture, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC 20250, telephone (202) 447-3325.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation 1512-1. This action does not constitute a review as to the need,

currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is April 1, 1992.

John Marshall, Manager, FCIC, (1) has determined that this action is not a major rule as defined by Executive Order 12291 because it will not result in: (a) An annual effect on the economy of \$100 million or more; (b) major increases in costs or prices for consumers, individual industries, Federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) certifies that this action will not increase the Federal paperwork burden for individuals, small businesses, and other persons and will not have a significant impact on a substantial number of small entities.

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115, June 24, 1983.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

On Wednesday, March 2, 1988, FCIC published a final rule in the *Federal Register* at 53 FR 6559, to add a new section 7 CFR 401.118, the Canning and Processing Bean Endorsement.

Subsequently, on Monday, March 21, 1988, a document correcting such final rule was published at 53 FR 9099, which added the inadvertently omitted the State of Utah to the policy for insuring beans. In adding Utah, and without further delineation, the end of insurance period fell in the "all other States" category of September 20 (7 CFR 401.118.4.). As a matter of practice, snap beans are not harvested until 15 days later in Utah which has the effect of leaving insured crops without protection.

In order to provide insurance protection through the full growing

season for these crops, it is necessary to change the end of insurance period for insured snap beans produced in the State of Utah from September 20 to October 5.

FCIC invites written public comment on this proposed rule for 30 days after its publication in the *Federal Register*. Comments should be submitted to Peter F. Cole, Secretary, Federal Crop Insurance Corporation, Room 4090, South Building, U.S. Department of Agriculture, Washington, DC. All written comments received pursuant to this proposed rule will be available for public inspection and copying at the above address during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Part 401

General crop insurance regulations; Canning and processing bean endorsement.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes to amend the General Crop Insurance Regulations (7 CFR Part 401), by amending the Canning and Processing Bean Endorsement (7 CFR 8401.118), effective for the 1989 and succeeding crop years, as follows:

PART 401—[AMENDED]

1. The authority citation for 7 CFR Part 401 continues to read as follows:

Authority: 7 U.S.C. 1506, 1516.

2. 7 CFR 401.118, the Canning and Processing Bean Endorsement, is amended by revising subsection 4. to read as follows:

§ 401.118 Canning and processing bean endorsement.

* * * * *

4. *Insurance period.* In addition to the provisions in section 7 of the general crop insurance policy, for unharvested acreage, the date by which acreage should have been harvested is added as one of the dates, the earliest of which is used to designate the end of the insurance period. The calendar date for the end of the insurance period is the applicable date of the year in which the beans are normally harvested, as follows:

Delaware, Maryland, and New Jersey—All Beans—October 15
New York—Snap Beans—September 30
Utah—All Beans—October 5
All other states—Snap Beans—September 20
All other states—Lima Beans—October 5

Done in Washington, DC, on February 13, 1989.

John Marshall,
Manager Federal Crop Insurance
Corporation.

[FR Doc. 89-3952 Filed 2-17-89; 8:45 am]

BILLING CODE 3410-08-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 204

[INS No.: 1055-89]

Acceptance by Overseas Immigration and Naturalization Service Offices and United States Consulates of Jurisdiction of Relative Petitions Based on Residence of Petitioners

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Proposed rule.

SUMMARY: This rule, which was inadvertently published as part of a final rule on November 20, 1987, at 52 FR 44593, proposed to revise and clarify the process used by overseas Immigration and Naturalization Service (INS) offices and United States (U.S.) consulates in accepting jurisdiction of Forms I-130, Petition To Classify Status of Alien Relative for Issuance of Immigrant Visas. This regulatory change is necessary to inform petitioners that they must now meet the residence criteria rather than the physical presence criteria in order to be eligible to file a Form I-130 abroad. In emergent or humanitarian cases, however, the Service and the U.S. consulates abroad may continue to use their discretionary authority to accept relative petitions submitted by non-residents. By providing clear and consistent procedures, INS will be better able to process certain immigrant visa petitions abroad.

DATES: Written comments must be received on or before March 23, 1989.

ADDRESS: Please submit written comments in triplicate to the Director, Policy Directives and Instructions, Immigration and Naturalization Service, Room 2011, 425 I Street, NW., Washington, DC 20536.

FOR FURTHER INFORMATION CONTACT: Yolanda Sanchez-K. Senior Immigration Examiner, Immigration and Naturalization Service, 425 I Street, NW., Room 7215, Washington, DC 20536, Telephone: (202) 633-5014.

SUPPLEMENTARY INFORMATION: After consultation with the Department of State, the Immigration and Naturalization Service (INS)

promulgated regulations on October 11, 1968, 33 FR 15200, giving the U.S. consulate offices abroad the authority to process Forms I-130, Petitions To Classify Status of Alien Relative for Issuance of Immigrant Visa, in cases where both the petitioner and the beneficiary were physically present in the consular jurisdiction. This regulation has resulted in an inconsistent practice, and thus in confusion for would-be petitioners, since regulations requiring foreign residence of the petitioner have remained in effect in cases where petitions are filed with overseas INS offices.

Since U.S. consulates by regulation are currently permitted to accept and adjudicate visa petitions from petitioners temporarily sojourning abroad, and INS offices are not, a number of petitioners who reside in the United States have travelled abroad believing they could file petitions for beneficiaries residing in countries where INS offices are present, only to be instructed to return to a stateside Service office to file because they do not meet the residence criteria for acceptance by the overseas Service office. Others have deliberately travelled to countries where petitions may be approved by U.S. consulates, simply to avoid real or perceived longer waiting times at stateside INS offices. This has caused heavy and unpredictable workloads at U.S. consulates around the world.

INS has determined that a consistent policy is important, and that it is appropriate and in compliance with the Attorney General's statutory authority to accept and process relative visa petitions abroad only when the petitioner is a resident of the country over which the U.S. consulate or INS office has jurisdiction, unless an emergent or humanitarian circumstance exists. Residence, under this section, is defined as the principal, actual dwelling place (See 8 U.S.C. 1101(a)(33)). Temporary residence or visits abroad do not fulfill the residence requirement under this definition and, therefore, do not qualify petitioners to apply for jurisdictional acceptance by overseas INS offices or U.S. consulates for the processing of their Form I-130 abroad.

These revisions clarify for the Immigration and Naturalization Service, the U.S. consulates abroad, and the public the process for filing and accepting relative petitions overseas.

In accordance with 5 U.S.C. 605(b), the Commissioner of the Immigration and Naturalization Service certifies that this rule does not have a significant impact on a substantial number of small

entities. This is not a major rule within the meaning of section 1(b) of E.O. 12291, nor does this rule have federalism implications warranting the preparation of a Federal Assessment in accordance with E.O. 12612.

The information collection requisites contained in this rule have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act under control number #1115-0054.

List of Subjects in 8 CFR Part 204

Administrative practice and procedure, Reporting and recordkeeping requirements.

Accordingly, Chapter I of Title 8, Code of Federal Regulations, is amended as follows:

PART 204—PETITION TO CLASSIFY ALIEN AS IMMEDIATE RELATIVE OF A UNITED STATES CITIZEN OR AS A PREFERENCE IMMIGRANT

1. The authority citation for part 204 continues to read as follows:

Authority: 68 Stat. 166, 173, 175, 178, 179, 182, 217, 100 Stat. 3537; 8 U.S.C. 1101, 1103, 1151, 1153, 1154, 1182, 1186a, 1255.

2. In § 204.1, paragraphs (a)(3) (ii) and (iii) are revised to read as follows:

§ 204.1 Petition.

(a) * * *

(3) * * *

(ii) *Petitioner residing abroad.* When the petitioner resides in Austria, England, Germany, Greece, Hong Kong, India, Italy, Kenya, Korea, Mexico, the Philippines, Republic of Panama, Singapore, or Thailand, the petition must be filed with the overseas offices of the Service designated to act on the petition. The overseas Service officer may accept a Form I-130 filed by a petitioner who does not reside within the office's jurisdiction when it is established that an emergent or humanitarian reason for acceptance exists or when it is in the national interest.

(iii) *Jurisdiction assumed by United States consular officers.* United States consular officers assigned to visa-issuing posts abroad, except those in countries listed in § 204.1(a)(3)(ii), are authorized to approve any relative petition filed in the area over which the consular officers have jurisdiction. In emergent or humanitarian cases, the U.S. consular officers are authorized to approve petitions. They must, however, refer any petition which is not clearly approvable to the appropriate Service office for a decision. Consultation with the appropriate Service office abroad may be sought prior to stateside referral.

Dated: February 6, 1989.

Richard E. Norton,

*Associate Commissioner, Examinations
Immigration and Naturalization Service.*

[FR Doc. 89-3901 Filed 2-17-89; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Part 381

[Docket No. 83-018]

Control of Added Substances and Labeling Requirements for Turkey Ham Products

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the definition, product standard and labeling requirements for turkey ham products. The current provision limits the amount of added water and other substances contained in turkey ham products by requiring the weight of the finished product to be no more than the original weight of the turkey thigh meat used prior to curing. This provision would be replaced by provisions specifying a minimum meat protein content on a fat free basis (PFF) in various turkey ham products. Compliance procedures to assure conformance with the proposed standards would be based on contemporary statistical science applied to current processing. This action is in response to a petition filed by the National Turkey Federation.

DATE: Comments must be received on or before April 24, 1989.

ADDRESS: Written comments to: Policy Office, Attn: Linda Carey, FSIS Hearing Clerk, Room 3171, South Agriculture Building, Food Safety and Inspection Service, United States Department of Agriculture, Washington, DC 20250. Oral comments, as provided under the Poultry Products Inspection Act, should be directed to Ashland Clemons (202) 447-4293. (See also "Comments" under Supplementary Information.)

FOR FURTHER INFORMATION CONTACT: Ashland Clemons, Acting Director, Standards and Labeling Division, Technical Services, Food Safety and Inspection Service, United States Department of Agriculture, Washington, DC 20250 (202) 447-4293.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

The Administrator has determined that this proposed rule is not a "major rule" under Executive Order 12291. This proposed rule would not result in an annual effect on the economy of \$100 million or more; or a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographical regions; or have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign based enterprises in domestic or export markets. Under the proposal, industry would have analytically defined requirements for each type of turkey ham product they wanted to make. It would reduce the potential for arbitrary labeling practices, since product designation would be based on a verifiable laboratory analysis. The new sampling system would also reduce sampling cost. Consumers would benefit from improved assurance that turkey ham products are accurately labeled and in compliance with the Agency's standards for these products.

Effect on Small Entities

The Administrator, Food Safety and Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act, Pub. L. 96-354 (5 U.S.C. 601). The Agency is aware of approximately 34 poultry establishments producing turkey ham products. Of the 34 establishments, only 3 are considered to be small entities.

Comments

Interested persons are invited to submit comments concerning this action. Written comments should be sent to the Policy Office and should bear reference to the docket number located in the heading of this document. Any person desiring an opportunity for an oral presentation of views, as provided for in the Poultry Products Inspection Act (21 U.S.C. 451 *et seq.*), must make such request to Mr. Clemons so that arrangements can be made for such views to be presented. A record will be made of all views orally presented. All comments submitted pursuant to this action will be available for public inspection in the Policy Office between 9:00 a.m. and 4:00 p.m., Monday through Friday.

Background

On March 15, 1983, the National Turkey Federation (NTF) petitioned the

Food Safety and Inspection Service (FSIS) to establish PFF values for turkey ham. This petition was received during the comment period on the proposal for PFF in cured pork products (47 FR 50900). NTF believes that such action would promote product standardization and permit turkey ham producers to compete more equitably with pork ham producers. The petitioner requested that PFF standards be developed for the following categories:

1. Turkey Ham
2. Turkey Ham—Natural Juices
3. Turkey Ham—Water Added
4. Turkey Ham—Percent Water Added
5. Turkey Ham—Chopped.

NTF asserted the existence of increasing concern within the turkey processing industry that some processors were not complying with standards as set forth in the regulations. As a result, it has been alleged that

some turkey ham contains excess moisture. By establishing PFF for turkey ham, FSIS would provide, according to NTF, a better method of control over water and other substances added to turkey ham products.

The proposal which elicited the NTF petition, was published as a final rule on April 13, 1984, and became effective April 15, 1985 (49 FR 14856). It modernized the Agency's regulatory program to ensure that cured pork products are accurately labeled at all stages of commerce. Previous standards limiting the amount of added water and other substances were replaced with standards specifying a minimum meat protein content on a fat free basis (PFF) in the various finished cured pork products. The rule also set forth compliance procedures to assure conformance with the standards and provides relabeling and/or processing requirements for products not in conformance with such standards. The

PFF approach eliminates the difficulty of monitoring and enforcing standards based on added substances. It also provides for the production and marketing of a wider range of products than previously allowed under the regulations. NTF is requesting that a similar control system be established for turkey ham products.

PFF means the percentage of meat protein in the nonfat portion of the finished product. The PFF approach reflects the presence of all added ingredients and relates labeling claims to the percent of meat protein in the product on a fat free basis. PFF allows control of added ingredients by controlling the meat protein in the nonfat portion of the cured product because anything added to the product dilutes the natural protein content.

PFF is derived from laboratory analyses for protein and fat. The formula used to determine PFF of cured products is:

$$\text{PFF} = \frac{\text{Percent Meat Protein by Analysis}}{100 - \text{Percent Fat by Analysis}} \times 100$$

PFF requirements are minimum levels for the average PFF value of all units in a production lot. Under the PFF approach, inspectors are aided in carrying out their responsibilities through a centrally administered sampling and evaluation program. The frequency of laboratory verification of an establishment's in-plant controls varies with the degree of its past compliance with PFF requirements. The compliance system keeps track of the process by utilizing a low sampling rate until there is an indication that the process may not be "in control". In those instances, the frequency of sampling is increased to determine whether there is reason for concern. If not, low level monitoring is resumed. However, if a problem does exist, each lot is assessed individually to determine compliance, and action is taken accordingly; i.e., product reworking or relabeling, as appropriate. When the process is shown to be back in control, the system returns to low level monitoring.

Turkey ham is currently regulated under § 381.171 (9 CFR 381.171). It is prepared from boneless turkey thigh meat without the skin and surface fat attached thereto. Turkey ham is cured and may be smoked. It may contain cure accelerators, phosphates, spices and other flavoring substances, as specified in the regulations (9 CFR 381.147(f)(4)).

Water may also be added to dissolve and disperse these substances. The cooked finished product cannot weigh more than the original weight of the turkey thigh meat prior to curing ("green" or uncured weight) (9 CFR 381.171(c)). This requirement is the basis for controlling the amount of added substances contained in turkey ham. The product name "Turkey Ham" must be qualified with the statement "Cured Turkey Thigh Meat" (9 CFR 381.171(e)). If the product is made from pieces of turkey thigh meat instead of whole thighs, the product name must be further qualified by a descriptive statement (9 CFR 381.171(f)). If the pieces are equivalent in size to a ½ inch cube or greater, the statement "Chunked and Formed" must be included. If the pieces are smaller than the equivalent of a ½ inch cube, the statements "Ground and Formed" or "Chopped and Formed", as appropriate, must be included.

On September 16, 1985, the Standards and Labeling Division of FSIS issued Policy Memo 057A describing circumstances for the production and marketing of turkey ham products that contain added water resulting in the finished product weighing more than the "green" weight.¹ This is permitted

provided the product is produced under a partial quality control (PQC) program and, in addition to the qualifiers set forth in § 381.171 (9 CFR 381.171), is identified by showing the percentage of added water; e.g., "Turkey Ham and 12% Water". This policy was a modification of earlier ones developed to enable turkey ham producers to market a "water added" product similar to pork ham products.

In response to the NTF petition, FSIS gathered data from poultry processing establishments on turkey ham production in the United States. These data were obtained from a 1984-85 turkey ham sampling which included all 34 establishments producing turkey ham products.² At two separate times, inspectors collected three representative samples of turkey ham products from a single day's production. If "flavoring" was included as an ingredient and the "flavoring" ingredients were unknown, a 4-ounce sample of "flavoring" was submitted along with the turkey ham product samples. All samples were analyzed by FSIS Science Field Service or contract laboratories to determine moisture, protein, and fat content of each turkey ham product sample and protein content of each "flavoring"

¹ A copy of the Policy Memo is available for review in the office of the FSIS Hearing Clerk.

² Results from this sampling are available for review in the FSIS Hearing Clerk's office between 9:00 a.m. and 4:00 p.m., Monday through Friday.

sample. The data reflects product which contains water in excess of that which is natural to thigh meat. This additional water is absorbed during the immersion chilling process following the slaughter and dressing operation. The amount of moisture absorption and retention allowed ranges from 4.3 percent to 8 percent, depending on the weight of the turkey carcass, and is regulated by § 381.66(d)(2) of the poultry products inspection regulations (9 CFR 381.66(d)(2)). This is the "green" weight that the turkey ham must return to after curing. PFF values obtained during this study from product identified as "Turkey Ham" agree closely with values in Agriculture Handbook 8³ for "Turkey Ham".

The types of turkey ham product categories requested by NTF would be included under this proposal with the exception of "Turkey Ham—Chopped". FSIS does not believe sufficient data exist at this time to determine an appropriate standard for such a product.

As in selecting the PFF approach for cured pork products, FSIS is principally concerned with assuring that protein levels in turkey ham products are not diluted with added water or other substances, or, if so, that they are appropriately identified. As with the current practice, fat content would not be regulated under this proposal. Although natural fat is removed in varying degrees during preparation, no fat may be added to turkey ham products.

Turkey ham is intended as a poultry alternative to pork ham and should be comparable in terms of the amount of protein on a fat free basis. Turkey ham has gained consumer acceptance and has been produced with certain characteristics that consumers have come to expect. In order to maintain these expected characteristics the Administrator proposes to establish PFF values for turkey ham products which are the same as the values for similar pork ham products. The PFF values for products "with natural juices" and "water added" are based on 5 percent and 10 percent added substances, respectively. PFF values are proposed for turkey ham products containing 15 percent and 20 percent added ingredients. At the time of the Agency's sampling study on turkey ham products, the poultry industry was not producing such products with added ingredients above 20 percent. Thus, data are not available to propose PFF values for products with larger amounts of added

ingredients. All of the proposed PFF values are based on calculations from the limited data available to FSIS. FSIS will consider any appropriate data the industry may wish to submit on turkey ham products to support different PFF values. Any data submitted should be in a mutually agreed upon format to facilitate such consideration. Persons wishing to submit data in support of different PFF values should contact Mr. Clemons to discuss the format in which the data will be offered.

The proposed categories reflect the manner in which similar products are identified in today's marketplace. Thus, this portion of the proposal should have no immediate impact on processors or consumers in terms of familiarity with labeling terminology.

Since more varieties of turkey ham products would be introduced, some establishments may encounter additional costs associated with labeling changes, if they decide to market the new products. As the costs would be related to the processors' decisions as to which types of products they would produce, FSIS cannot predict estimated labeling costs.

This proposal would also establish procedures for monitoring compliance with the new PFF based requirements. The Department is proposing compliance procedures which would permit it to obtain maximum benefit from limited laboratory capacity while (1) providing greater assurance that established product standards are being met, and (2) allowing statistically determined tolerances consistent with good manufacturing practices.

These proposed procedures, like the current system for cured pork products, include centrally directed sampling using FSIS data processing facilities located in Washington, DC, laboratory analysis, and decisions based on a statistical treatment of laboratory results which would assure adherence within reasonable bounds to the proposed PFF standards. Generally, PFF shortages in some lots that might result from the variability inherent in good manufacturing practices, would be balanced by PFF overages in other lots.

Since the statistical treatment of laboratory results is the least expensive element of the proposed program, this element would be used to the fullest extent possible to assure with a high level of confidence, that collection and analysis are kept at levels as moderate as the data permit. Thus, such statistical treatment would determine frequency of sampling for certain products within individual establishments. If, for example, laboratory results should

indicate that the future likelihood of adulteration and/or misbranding of a given product in a given establishment is small, the rate of sampling would be reduced, and the Agency's resources would be utilized more productively elsewhere.

The Agency recognizes that the proposed compliance program is complex, even though steps have been taken to reduce such complexity without sacrificing its statistical validity. As a practical matter, in a compliance program designed to meet concerns for such interrelated factors as the nature of the product, the interests of the consuming public, production and marketing characteristics of the industry, economy in government, and equity among processors, the maximum value of statistics and computerization cannot be realized in a simple procedure. Prior experience with the protein fat free compliance system for cured pork products has proved the validity of this approach. The Agency has carefully considered the complexity of the proposed compliance program and believes it is the best alternative available to regulate the turkey ham industry fairly, effectively, and efficiently, and, at the same time, maintain the confidence of the public regarding the wholesomeness and truthful labeling of the products being marketed by that industry.

The Agency's success with the PFF system for cured pork products has influenced this proposed compliance program. Unlike cured pork products, turkey ham products are essentially prepared and marketed in a similar manner. At this time, the turkey ham products would fit into only one grouping and will be considered a single group. Unlike the cured pork products, turkey ham is not bone-in. By considering the currently marketed turkey ham products as one group, the Agency is allowing flexibility for industry to develop other turkey ham products, e.g., Turkey Ham with Natural Juices. This current grouping is intended to contribute only to the efficiency of the compliance program. Regulatory actions would be taken, if justified by analytical results, against individual products such as "Turkey Ham, Water Added" rather than against all turkey ham products. Further analytical results will influence sampling frequency, pursuant to authorities expressed in the existing regulations.

As stated above, the Agency is proposing a single product group for turkey ham. Comments are requested on the need for additional product groups and the criteria for each.

³ A copy of the relevant information from this publication is available for review in the office of the FSIS Hearing Clerk.

The proposed rule would establish two general compliance phases: a normal or periodic sampling phase, and a daily sampling phase. A third phase, the retention phase, would also be established but would apply only to individual products rather than to the Product Group.

In the normal or periodic sampling phase, samples would be collected periodically, principally from within official establishments but with provisions for collection in the distribution chain such as in storage warehouses and retail outlets. Initially, all establishments would be subject to sampling in this phase. A statistical analysis of laboratory findings could result, with respect to a given turkey ham product processor, in (1) continuation of the normal phase at the same or varying sampling frequency, (2) institution of the daily sampling phase for the entire turkey ham Product Group, and/or (3) retention or detention⁴ of one or more individual products, based upon respective single sample demonstrations of gross PFF shortages. When any single lot of a product was retained or detained, subsequent production of like product would be affected, and thus the retention phase would be entered.

In the daily sampling phase, analytical results could cause (1) continued daily sampling, (2) a return to periodic sampling, (3) retention or detention of one or more individual products by virtue of gross PFF shortages evidenced by single individual product samples, and/or (4) retention of one or more individual products based upon a series of lesser PFF shortages in samples of such products, not balanced by PFF overages. If a lot were retained or detained, under (3) or (4), such treatment would also be imposed upon future lots of like product, and thus the retention phase would be entered.

In the retention phase, no production lot of an affected product would be permitted to enter commerce until laboratory analysis demonstrated that such lot meets the PFF standards. Sampling of the affected product would be intensified further, and analytical results could cause: (1) Release of an

individual lot into commerce, (2) an individual lot to be reprocessed, (3) an individual lot to be relabeled, (4) continuation of the retention phase as future lots of like product are prepared, and/or (5) release of future production from the retention phase.

Within the broad framework outlined above, regulatory decisions would be reached through a number of precise and interrelated rules. These rules were originally constructed to enhance the Agency's efficiency in monitoring the production of cured pork products, and at the same time provide industry the latitude to operate within the limits of good manufacturing practice without penalty. This balanced approach has proven to be effective. The Agency has carefully considered the relevancy of these rules to turkey ham products and has concluded that they can be used in a similar approach. The computations associated with these rules will be carried out by the FSIS data processing facilities in Washington, DC, and the results and notification of any necessary regulatory action forwarded to the Agency's inspector. However, in order to provide affected parties a foundation for comment, a more detailed discussion of these rules and regulatory actions follows, keyed to the (a) normal or periodic sampling phase, (b) daily sampling phase, (c) retention phase, and (d) the absolute minimum PFF value proposed for a single sample.

(a) *Normal or Periodic Sampling.* This is the phase under which the compliance program for the Product Group would begin. It would remain in effect until there is evidence that minimum PFF percentage requirements are not being met. Such evidence would be deemed to exist when, in a series of consecutive samples, the cumulation of the deviation from the product PFF requirement (termed the "Group Value") reaches a prescribed level, hereinafter referred to as the "group action level".

The proposed regulations would identify for the Product Group, its standard deviation⁵ (0.5) and also the

level (1.65 standard deviations) at which as PFF shortage would not be ascribed to reasonable manufacturing variations. This level is calculated to be reached by a single sample result with no more than a 5 percent probability, if the establishment's production meets but does not exceed minimum PFF requirements.

Instructions would be provided for assigning values to analytical PFF findings of individual samples. One rule would describe how the analytical results from an individual sample would contribute to a Group Value:

(1) Subtract the minimum PFF requirement (for the product represented) from the individual PFF analysis.

(2) Divide the resulting number by the standard deviation assigned to the Product Group (0.5) to find the Standardized Difference.

(3) Add 0.25 to the Standardized Difference to find the Adjusted Standardized Difference.

(4) Use the lesser of 1.90 and the Adjusted Standardized Difference as the Sample Value which will contribute to the Group Value.

(5) Cumulatively total the Sample Values to determine the Group Value. Each step comment:

(1) Subtract the minimum PFF requirement (for the product represented) from the individual PFF analysis.

This will result in a negative figure when the sample result does not meet minimum percentage requirements.

(2) Divide the resulting number by the standard deviation assigned to the Product Group (0.5) to find the Standardized Difference.

The Standardized Difference expresses the PFF shortage (negative number) or overage (positive number) in units of standard deviations. This step is included to provide a common unit for expressing the impacts of sample results without regard to Product Group. It permits the establishment of a group action level and is a measure for use by establishment employees and program officials that would close monitor the production of turkey ham products.

(3) Add 0.25 to the Standardized Difference to find the Adjusted Standardized Difference.

By taking this step, the Agency is attempting to adopt a means of concentrating its resources on the more serious violations. Because of the relatively infrequent rate of sampling in this phase, there exists an expectation that an extended time would transpire before problem areas would be identified. FSIS intends to reduce the

⁴ A product is "U.S. Retained" when it is not passed by the inspector but rather is held in the official establishment for further examination by the inspector to determine its disposal (9 CFR 381.1(b)(58)). A product is "U.S. Detained" when found by any authorized representative of the Secretary upon any premises where it is held for the purposes of, or during, or after distribution in, commerce, and there is any reason to believe that it is capable of use as human food, and is adulterated or misbranded, or that it has not been inspected, or that it is otherwise violative of the law (9 CFR 381.1(b)(54)).

⁵ In statistics, the standard deviation is used to describe the degree of variability inherent in the set of measurements generated from a process that is characterized by a normal distribution. The set of numbers will stay within one standard deviation on either side of the average value 68 percent of the time. The comparable figure for two standard deviations is 96 percent, and for three standard deviations is over 99 percent. By stating limits in units of standard deviations, one can use the same set of limits for a number of processes. Standard deviations for within lot variability of products affected by this rulemaking were calculated from a 1984 USDA survey of turkey ham products. The survey material is available for review in the FSIS Hearing Clerk's office.

probability of reaching the action level because of minor PFF violations, in return for having more resources available for concentration on gross or consistent PFF shortages. Adding this small figure to the Standardized Difference would have that effect. It would reduce the probability that the periodic sampling rate would increase, and add to the number of samples with like shortages that it would take to trigger daily group samplings (i.e., to reach the group action level). It would have a similar but proportionately lesser impact on gross shortages. This lesser impact would be more than balanced by the increased sampling rate attendant with greater shortages. The 0.25 adjustment amounts to about 0.1 or 0.2 percent of PFF. FSIS believes this to be a level which will only marginally exceed sampling and analytical error, and will serve the intended purpose.

(4) Use the lesser of 1.90 and the Adjusted Standardized Difference as the Sample Value which will contribute to the Group Value.

FSIS proposes to ensure not only that PFF shortages are balanced by PFF overages, but also that the severity and number of PFF shortages be kept to a minimum. It proposes, therefore, that no single Sample Value be used beyond the extent of 1.90 to balance shortages, even if the true Sample Value exceeds that figure. Before a Sample Value contributes to the Group Value, it would be compared to the maximum Sample Value of 1.90. If it exceeds that figure, the Sample Value would be recorded as 1.90.

The figure 1.90 is related to the 1.65 standard deviation earlier noted as the level at which a PFF shortage would not be ascribed to reasonable manufacturing variations. The same applies to overages. That is, if the processor is producing at the minimum required PFF value, the probability would be no more than 5 percent that the PFF content of a sample would be greater than 1.65 standard deviations above the requirement. The Department views this as a reasonable limit, believing that it is necessary to assure that large one-time PFF overages are not used to offset a series of PFF shortages. Step (3) would establish an automatic addition to the Standardized Difference calculated in step (2). Since the automatic addition, or tolerance (0.25), has no effect on the variability of the manufacturing process, it would be added to the 1.65 in order to assure the processor the full benefit of variability within a controlled process. In this fashion 1.90 is arrived at as a proposed

maximum contribution to the group from a single sample.

(5) Cumulatively total the Sample Value to determine the Group Value.

After the initial Sample Value is calculated, and becomes by itself the Group Value, each succeeding Sample Value creates a new Group Value by being added to the last Group Value. Here again, a limit of the PFF coverage that may be credited is imposed. The objective of this proposal is to assure that the manufacturing process remains in control; i.e., that within reasonable and expected variation, minimum required PFF levels will be consistently met. If unlimited credits were to be accepted for overages (which could be due to poor control) it would become necessary, in order to assure within reason that required PFF values are consistently met, to have a moving action level—one that moved up and down with the Group Value. This would make it difficult for establishment personnel and in-plant program officials to accurately assess the effects of PFF levels on the probability of compliance. Further, maintaining a level above which overages cannot be credited effectively minimizes the impact that varying lot sizes might have on a group PFF average. Thus it would be that the Group Value would never exceed 1.00. That is, as Sample Values are cumulatively totaled, should the value exceed 1.00, it would be recorded as 1.00, and the next sample would be added to 1.00 to find the new Group Value.

The action level for the Group Value would be -1.40 ; i.e., once the Group Value becomes equal to -1.40 or less (-1.40 , -1.45 , -1.47 , etc.), daily sampling for the group would be initiated. This figure is consistent with the rationale that when a PFF shortage is as large as 1.65 standard deviations, it would not be ascribed to reasonable variations. Step (3) above provides that an adjustment of 0.25 be added to the Standardized Difference. The resulting figure of -1.40 is that level which is calculated to be reached by a single sample with no more than 5 percent probability, with the same assumptions earlier associated with -1.65 figure. A further characteristic is that, assuming the process average meets but does not exceed the minimum required PFF, on the average a series of 20 samples would be collected before a cumulative shortage would reach this figure.

The proposal would further provide that, concurrent with the Group Value, Product Values also be cumulatively maintained. While a Group alone would affect only sampling frequency, a

Product Value (supported by the Group Value) could signal a much more serious event—product retention.

Instructions for determining a Product Value would be as follows:

(1) Subtract the minimum PFF requirement (for the product represented) from the individual PFF analysis.

(2) Divide the resulting number by the group standard deviation to find the Standardized Difference.

(3) Use the lesser of 1.65 and the Standardized Difference as the Sample Value which will contribute to the Product Value.

(4) Cumulatively total the Sample Value to determine the Product Value.

There are significant departures from the proposed Group Value formula. While the first two steps are identical, the entire third group step is omitted in that there is no provision for the addition of a tolerance of 0.25 to the Standardized Difference. FSIS recognizes that this omission creates the possibility that a Product Value might indicate a PFF shortage while the concurrent Group Value, because of the allowed tolerance, might not show a process control difficulty. Nevertheless, FSIS believes the elimination of a tolerance in determining the Product Value to have sound foundation for the following reasons:

(i) The 0.25 tolerance is proposed as a means of overcoming, in large part, the principal disadvantage of infrequent sampling by permitting a concentration of resources on problem areas. With possible rare exceptions, the overwhelming significance of Sample Values contributing to a Product Value which breaches the action level will be in samples collected during a daily sampling phase. Therefore, the reasons for the tolerance do not exist.

(ii) The consumer's interest would not be served by permitting a constant 0.25 tolerance to accumulate over a series of samples for a Product Value, particularly since much of the sampling would be on a daily basis.

(iii) The proposal would protect processors against unreasonable jeopardy by requiring that the action levels of both the Product Value and Group Value be reached in order that a retention phase be entered.

Another difference is proposing 1.65 as the maximum credit that can be contributed by a single sample, as opposed to 1.90 which is used in establishing a contribution to a Group Value. This results from the 1.65 standard deviations occurring with no more than 5 percent probability and being unaffected by a tolerance.

In step (4), comparable to step (5) in the group calculation, Sample Values are totaled cumulatively to maintain the Product Value. After the initial Sample Value is calculated and becomes by itself the Product Value, each succeeding Sample Value creates a new Product Value by being added to the last Product Value. Reaching the action level with a Product Value has more serious consequences than reaching it with the Group Value; i.e., provided the group action level has been reached by the Group Value, reaching the product action level with the Product Value causes product on hand to be retained and like product to be retained as it is produced. In keeping with the earlier discussion, the product action level is -1.65 .

While the maximum Group Value that would ever be recorded is 1.0, a Product Value could be recorded as high as 1.15. In a series of simulations, FSIS found that a significant discrepancy between group performance and product performance existed because of the 0.25 tolerance for Sample Values contributing to Group Values. The discrepancy could be reduced by allowing this slightly larger credit to be built into the maximum Product Value. This nominal increase in permitted credit, which must be earned, would reduce the probability of a well-controlled process reaching the product action level, while continuing to assure that required PFF levels would, on the average, be met. At the same time, it would afford better synchronization of the Group Value and Product Values. The outcome is that, if a process average equalled but did not exceed PFF requirements, on the average, 12 samples would be collected before the product action level is reached.

In proposing these PFF standards, it is not the Agency's intent that they represent a long-range average content, but rather a minimum content. Processors can avoid retention by targeting at a process average that moderately exceeds the minimum PFF requirement (a company's ability to control variation will determine the targeted process average). This is intended to avoid entry into commerce

of production lots not meeting the PFF standard.

(b) *Daily Sampling Phase.* During this phase, Group Values and Product Values are monitored in the same manner as in the periodic sampling phase, except for the higher sampling frequency. However, the Group Value will have already reached its action level. As a group enters the daily sampling phase, it is very likely that one or more products in the group will immediately enter the retention phase by having reached the product action level. However, in this respect, the proposal would require two events to trigger a retention phase for a product: (1) Group entry into the daily sampling phase, and (2) the Product Value reaching its action level.

Since there is more than one product in the group, it is also likely that one or more products would be monitored only as part of the daily sampling phase. Therefore, there would be no provisions for retaining a group *per se*; the group would continue to be monitored in the daily sampling phase until it qualifies for a return to periodic sampling. It is proposed that this would happen when (1) the Group Value reaches or exceeds 0.00, (2) when each of the last seven Sample Values is -1.65 or greater, and (3) when none of the products in the group are in the retention phase. All three conditions would be required to be met in order to return to periodic sampling.

If, as would be likely, one or more products were in the retention phase, the daily sampling scheme would be altered. As explained below, in the retention phase, product sampling would take on a new character and become intense. The retained product samples used to make lot dispositions and determine the Product Value could contribute to the Group Value. However, some sampling of retained product would be necessary to properly monitor the group. These samples would be collected separately and would not contribute to the Product Value of the retained product. A retention sample could serve as a daily sample.

(c) *Retention Phase.* The retention phase would be entered on a product-

by-product basis. During this phase, each lot of the affected product would be withheld from commerce until it is demonstrated to be in compliance with minimum PFF requirements. A product could enter retention in two ways. One has been described above. It is conditioned upon the product's being in daily sampling, and its own Product Value reaching a -1.65 product action level (i.e., a series of shortages not compensated by overages adding up to 1.65 standard deviations). The second way a product can enter the retention phase would be for it to fail to meet the "absolute minimum PFF value" proposed for a single sample.

When a product enters the retention phase, sampling would increase. Three samples would be randomly selected from each of all available affected lots. Further, subsequently produced lots would be retained and sampled in like manner as they are prepared. Analytical results from a lot would be used to dispose of that lot and to calculate a Sample Value contributing to the cumulatively maintained Product Value. With respect to those lots from which four samples had been drawn (an original and three later), the original sample would be used to calculate the Sample Value and the latter three would be used only in determining disposition of the individual lot. With respect to subsequently produced lots, from which only three samples would be collected, the average PFF content of the three samples would be used for both—disposition of the individual lot and calculation of the Sample Value contributing to the Product Value.

An individual lot would be released if one of the following occurs:

(1) The average PFF content of the three samples equals or exceeds the minimum percentage required by the proposed regulation. Alternatively, for purposes of single lot disposition, but not to establish a new Sample Value which will contribute to the Product Value, further processing of the lot would be permitted. To evaluate the amount of moisture reduction needed to achieve the desired PFF value, the following formula may be used:

$$\text{Percent moisture reduction} = \frac{\text{Desired increase in PFF value} \times (100 - \text{percent fat by analysis})}{\text{Current PFF value} + \text{desired increase in PFF value}}$$

Processing to reduce moisture would elevate PFF content of the lot. The formula takes into account that products with a low fat content or low initial PFF

value require greater moisture loss to increase the PFF value. However, the lot would no longer be representative of the product.

(2) The lot of product is relabeled to conform to one of the proposed product descriptions.

(3) An earlier prepared lot had resulted in a Product Value that would remove the product from the retention phase.

There is a time lag between the collection of samples and the reporting of results. During this lag, additional samples would have been collected unless the product is prepared only periodically. FSIS proposes to accept the earliest evidence that a process is back in control and the product complies with regulatory requirements and, once this evidence is in hand, subsequently prepared product would be released even though other analytical results are being awaited. However, the awaited results would not be ignored. Each of the three samples from each lot would be compared to the absolute minimum PFF requirement and the three-sample average would also be used to continue maintenance of the Product Value. Therefore, there is the possibility (although not a likelihood) that the awaited sample results would return the product to the retention phase.

Since the use of three-sample PFF averages would ordinarily result in significantly less perceived variability than would single-sample results, there would be an alteration in determining Sample Values of retained product as follows:

(1) Determine the average PFF content of the three samples.

(2) Subtract the minimum PFF requirement for the product represented from the average found in (1) above.

(3) Convert the difference found in (2) above to a Standardized Difference through dividing it by the standard deviation assigned to the group. (Through this step, the only difference from earlier described calculations is that a three-sample average is used rather than a single sample result.)

(4) Use the lesser of 1.30 and the Standardized Difference obtained in (3) above as the Sample Value which will contribute to the Product Value. The difference between 1.30 and the 1.65 used in earlier calculations acknowledges that variability among three-sample averages would be less than variability among single samples. FSIS recognizes that processors would likely prepare product with average PFF values greater than those required by the proposal in order to ensure that product will get out of the retention phase in the shortest possible time. The maximum allowable credit of 1.30 is that which would be reached about 8 percent of the time if the lot average PFF value exceeded the requirement by 0.5 percentage points.

(5) Cumulatively total Sample Values calculated in the above manner to

determine the Product Value. The greatest Product Value that could be recorded remains at 1.15, as described earlier.

The retention phase would end when, after 5 days of production (5 lots), the Product Value reaches 0.00 or greater, provided that no single sample (not the three-sample average) from a retained lot has a PFF content less than the absolute minimum PFF requirement. Should a single sample have a PFF content less than the absolute minimum, the 5-day count would begin again. Ending of the retention phase would reinstitute periodic or daily sampling, dependent upon the Group Value and other Product Values in the group.

As long as a product was in the retention phase, the group would remain in the daily sampling phase. Under normal circumstances, this would be a reasonable condition of process control. However, if a product were prepared infrequently, its presence in the retention phase could easily keep its group in daily sampling well beyond any legitimate purpose. FSIS proposes to afford processors an option in this respect. If, when a product enters the retention phase, it can be demonstrated that its production rate for the previous 8 weeks was not more than 20 percent of the production rate of the group, the proposal would permit a processor (at the option of the processor) to temporarily remove the product from its group. This removal, however, could be in effect only while the product is in retention. If the option were exercised, during that time, the product and the group would be treated separately and analytical results of the product would not cause daily sampling of the group. It should be noted that production rate by proposed definition is not synonymous to volume of production, but is production frequency, expressed in days per week.

(d) *Absolute Minimum PFF Requirements.* FSIS proposes to establish for individual samples an absolute minimum PFF requirement for every turkey ham product with a PFF standard. Should a single sample fail to meet this minimum, the represented lot would be retained if in an official establishment and, unless voluntarily recalled, would be subject to administrative detention if not in an official establishment. Any subsequently produced lots of like product for which production dates cannot be established shall be retained or subject to administrative detention. Further, future production would be prepared in the retention phase.

The absolute minimum PFF requirement for a single sample of a cooked product would be 1.5 percentage

points below the standard for the represented product. This figure represents approximately three standard deviations, and there is less than a 1 percent chance that a properly controlled process would result in such failure.

(e) *Quality Control.* Establishments may institute quality control procedures covering turkey ham products under § 381.145 of the poultry products inspection regulations (9 CFR 381.145). Turkey ham products produced in such establishments would be exempt from the proposed compliance procedure, provided in-plant quality control programs show the same or higher degree of compliance.

For various reasons, FSIS has in the past and will in the future conduct inspection of poultry and poultry products, including sampling and laboratory analysis, at various points in commerce, including the point of consumer purchase. With respect to turkey ham products, it is expected that such inspection will include PFF determinations. In such cases, if absolute minimum PFF requirements are not met, the Agency intends to enforce the detention and, under appropriate circumstances, the judicial seizure provisions of the PPIA, and to institute the retention phase for future preparation of like product at the producing establishment.

Proposed Rule

For the reasons set out in the preamble, Title 9, Subchapter C, Part 381, of the Code of Federal Regulations is proposed to be amended as set forth below:

List of Subjects in 9 CFR Part 381

Poultry products inspection.

PART 981—[AMENDED]

1. The authority citation for Part 381 continues to read as follows:

Authority: 71 Stat. 441, 82 Stat. 791 as amended, 21 U.S.C. 451 *et seq.*; 76 Stat. 663 (7 U.S.C. 450 *et seq.*).

2. Subpart O of Part 381 would be amended by adding a new § 381.154 as follows:

§ 381.154 Compliance procedure for cured turkey ham products.

(a) *Definitions.* For the purposes of this subpart, the following definitions shall apply:

(1) *Product.* Cured turkey ham product which is contained within one group as defined in paragraph (a)(2) of this section and which purports to meet the criteria for a single product designated

under the heading "Product Name and Qualifying Statements" in § 381.171(c).

(2) *Product Group or a group.* One of the following:

Group A, consisting of boneless cooked turkey ham products.

Group B, (reserved)

(3) *Lot.* Product from one production shift.

(4) *Production rate.* The frequency of production, expressed in days per week.

(5) *Protein fat free percentage, protein fat free content, PFF percentage, PFF content or PFF.* The meat protein (indigenous to the raw, unprocessed turkey) content expressed as a percent of the non-fat portion of the finished product.

(b) *Normal compliance procedures.* The Department shall collect samples of cured turkey ham products and analyze them for their PFF content.¹ Each analytical result shall be recorded and evaluated to determine whether future sampling of Product Groups within an official establishment shall be periodic or daily under the provisions of paragraph (b)(1) of this section, and whether the affected lot and subsequent production of like product shall be U.S. retained, or administratively detained, as appropriate, as provided in paragraph (b)(2) of this section.²

(1) *Criteria to determine sampling frequency of Product Group(s).* For each official establishment preparing cured turkey ham products, Product Groups shall be sampled periodically or daily. Analytical results shall be evaluated and the sampling frequency determined as follows:

¹ Analyses shall be conducted in accordance with "Official Methods of Analysis of the Association of Official Analytical Chemists (AOAC)", 14th ed., 1984, §§ 24.002 (page 431), 24.027 (page 434), which are incorporated by reference.

² Rules for Rounding:

1. Laboratory results for percent meat protein and fat will be reported to the second decimal place (hundredths).

2. PFF and Sample Values for charting purposes will be calculated from the reported laboratory results to the second decimal place. Rounding of calculations to reach two decimal places will be done by the following rule: All values of five-thousandths (0.005) or more will be rounded up to the next highest hundredth. All values of less than five-thousandths (0.005) will be dropped.

3. For compliance with the Absolute Minimum PFF requirements, the PFF will be rounded to the first decimal place (tenths). Rounding of calculations to reach one decimal place will be done by the following rule: All PFF values of five-hundredths (0.05) or more will be rounded up to the next highest tenth. All PFF values of less than five-hundredths will be dropped.

4. For product disposition (pass-fail of a minimum PFF standard for retained product), the average PFF calculation will be rounded to the first decimal place. Individual PFF values will be calculated to the nearest hundredth as in (2) above. The average, however, will be rounded to the nearest tenth as in (3) above.

(i) Determine the difference between the individual PFF analysis and the applicable minimum PFF percentage requirement of § 381.171(c). The resulting figure shall be negative when the individual sample result is less than the applicable minimum PFF percentage requirement and shall be positive when the individual sample result is greater than the applicable minimum PFF percentage requirement.

(ii) Divide the resulting number by the standard deviation assigned to the Product Group represented by the sample to find the Standardized Difference. The standard deviation assigned to Group A is 0.5.

(iii) Add 0.25 to the Standardized Difference to find the Adjusted Standardized Difference.

(iv) Use the lesser of 1.90 and the Adjusted Standardized Difference as the Sample Value.

(v) Cumulatively Total Sample Values to determine the Group Value. The first Sample Value in a group shall be the Group Value, and each succeeding Group Value shall be determined by adding the most recent Sample Value to the existing Group Value: *Provided, however,* That in no event shall the Group Value exceed 1.00. When the calculation of a Group Value results in a figure greater than 1.00, the Group Value shall be recorded as 1.00 and all previous Sample Values shall be ignored in determining future Group Values.

(vi) Sampling of a group shall be periodic when the Group Value is greater than -1.40 (e.g., -1.39, -1.14, 0, 0.50, etc.) and shall be daily when the Group Value is -1.40 or less (e.g., -1.40, -1.45, -1.50, etc.): *Provided, however,* That once daily sampling has been initiated, it shall continue until the Group Value is 0.00 or greater, and each of the last seven Sample Values is -1.65 or greater (e.g., -1.63, -1.50, etc.), and there is no other product within the affected Group being U.S. retained as produced, under provisions of paragraph (b)(2) or (c) of this section.

(2) *Criteria for U.S. retention or administrative detention of cured turkey ham products for further analysis.* Cured turkey ham products shall be U.S. retained or administratively detained, as appropriate, when prescribed by paragraph (b)(2) (i) or (ii) of this section.

(i) *Absolute minimum PFF requirement.* In the event that an analysis of an individual sample indicates a PFF content below the applicable minimum requirement of § 381.171(c) by 1.5 or more percentage points for a Group A product, the lot from which the sample was collected shall be U.S. retained if in an official

establishment or shall be subject to administrative detention if not in an official establishment, unless returned by voluntary recall to an official establishment and there U.S. retained. Any subsequently produced lots of like product and any lots of like product for which production dates cannot be established shall be U.S. retained or subject to administrative detention. Such administratively detained product shall be handled in accordance with Subpart U of this subchapter, or shall be returned to an official establishment and subjected to the provisions of paragraph (c)(1) (i) or (ii) of this section, or shall be relabeled in compliance with the applicable standard, under the supervision of a program employee, at the expense of the product owner. Disposition of such U.S. retained product shall be in accordance with paragraph (c) of this section.

(ii) *Product Value requirement.* The Department shall maintain, for each product prepared in an official establishment, a Product Value. Except as provided in paragraph (c)(2) of this section, calculation of the Product Value and its use to determine if a product shall be U.S. retained shall be as follows:

(A) Determine the difference between the individual PFF analysis and applicable minimum PFF percentage requirement of § 381.171(c). The resulting figure shall be negative when the individual sample result is less than the applicable minimum PFF percentage requirement and shall be positive when the individual sample result is greater than the applicable minimum PFF percentage requirement.

(B) Divide the difference determined in (A) above by the standard deviation assigned to the product's group in paragraph (b)(1)(ii) of this section to find the Standardized Difference.

(C) Use the lesser of 1.65 and the Standardized Difference as the Sample Value.

(D) Cumulatively total Sample Values to determine the Product Value. The first Sample Value of a product shall be the Product Value, and each succeeding Product Value shall be determined by adding the most recent Sample Value to the existing Product Value: *Provided, however,* That in no event shall the Product Value exceed 1.15. When calculation of a Product Value results in a figure greater than 1.15, the Product Value shall be recorded as 1.15, and all previous Sample Values shall be ignored in determining future Product Values.

(E) Provided daily group sampling is in effect pursuant to the provisions of paragraph (b)(1) of this section, and

provided further the Product Value is -1.65 or less (e.g., -1.66), the affected lot, if within the official establishment, and all subsequent lots of like product prepared by and still within the official establishment shall be U.S. retained and further evaluated under paragraph (c). Except for release of individual lots pursuant to paragraph (c)(1), subsequently produced lots of like products shall continue to be U.S. retained until discontinued pursuant to paragraph (c)(2) of this section.

(c) *Compliance procedure during product retention.* When a product lot is U.S. retained under the provisions of

paragraph (b)(2) of this section, the Department shall collect three randomly selected samples from each such lot and analyze them individually for PFF content. The PFF content of the three samples shall be evaluated to determine disposition of the lot as provided in paragraph (c)(1) of this section and the action to be taken on subsequently produced lots of like product as provided in paragraph (c)(2) of this section.

(1) A product lot which is U.S. retained under the provisions of paragraph (b)(2) of this section may be released for entry into commerce

provided one of the following conditions is met:

(i) The average PFF content of the three samples randomly selected from the lot is equal to or greater than the applicable minimum PFF percentage required by § 381.171(c). Alternatively, for purposes of meeting this provision and for single lot disposition, but not to establish a new Sample Value which will contribute to the Product Value, further processing to remove moisture is permissible. In lieu of further analysis to determine necessary moisture reduction, the following formula may be used:

$$\text{Percent moisture reduction} = \frac{\text{Desired increase in PFF value} \times (100 - \text{percent fat by analysis})}{\text{Current PFF value} + \text{desired increase in PFF value}}$$

(ii) The lot of the product is relabeled to conform to the provisions of § 381.171(c) under the supervision of a program employee.

(iii) The lot is one that has been prepared subsequent to preparation of the lot which, under the provisions of paragraph (c)(2) of this section, resulted in discontinuance of U.S. retention of new lots of like product. Such lot may be released for entry into commerce prior to receipt of analytical results for which sampling has been conducted. Upon receipt of such results, they shall be subjected to the provisions of paragraphs (b)(2)(i) and (c)(2) of this section.

(2) The PFF content of three randomly selected samples from each U.S. retained lot shall be used to maintain the Product Value described in paragraph (b)(2)(ii). The manner and effect of such maintenance shall be as follows:

(i) Find the average PFF content of the three samples.

(ii) Determine the difference between that average and the applicable minimum PFF percentage requirement of § 381.171(c). The resulting figure shall be negative when the average of the sample results is less than the applicable minimum PFF percentage requirement and shall be positive when the average of the sample results is greater than the applicable minimum PFF requirement.

(iii) Divide the resulting figure by the standard deviation assigned to the product's group in paragraph (b)(1)(ii) of this section, to find the Standardized Difference.

(iv) Use the lesser of 1.30 and the Standardized Difference as the Sample Value.

(v) Add the first Sample Value thus calculated to the latest Product Value calculated under the provisions of paragraph (b)(2)(ii) of this section to find the new Product Value. To find each succeeding Product Value, add the most recent Sample Value to the existing Product Value: Provided, however, That in no event shall the Product Value exceed 1.15. When the addition of a Sample Value to an existing Product Value results in a figure greater than 1.15, the Product Value shall be recorded as 1.15 and all previous Sample Values shall be ignored in determining future Product Values.

(vi) New lots of like product shall continue to be retained pending disposition in accordance with paragraph (c)(1) of this section until, after 5 days of production, the Product Value is 0.00 or greater, and the PFF content of no individual sample from a U.S. retained lot is less than the absolute minimum PFF requirement specified in paragraph (b)(2)(i) of this section. Should an individual sample fail to meet its absolute minimum PFF requirement, the 5-day count shall begin anew.

(vii) When U.S. retention of new lots is discontinued under the above provisions, maintenance of the Product Value shall revert to the provisions of paragraph (b)(2)(ii) of this section.

(3) For purposes of this section, the establishment owner or operator shall have the option of temporarily removing a product from its Product Group, provided product lots are being U.S. retained, as produced, and provided further that the average production rate of the product, over the 8-week period preceding the week in which the first U.S. retained lot was prepared, is not

greater than 20 percent of the production rate of its group. When a product is thus removed from its group, analytical results of product samples shall not cause daily sampling of the group. When pursuant to paragraph (c)(2)(vi) of this section, new lots of the product are no longer being U.S. retained, the product shall again be considered with its group.

(d) *Adulterated and misbranded products.* Products not meeting specified PFF requirements, determined according to procedures set forth in this section may be deemed adulterated and misbranded under section 4(g) of the Poultry Products Inspection Act (21 U.S.C. 453(g)).

(e) *Quality control.* With respect to cured turkey ham products, official establishments may institute quality control procedures under § 381.145(c) of this subchapter. Cured turkey ham products produced in such establishments shall be exempt from the requirements of this section; provided in-plant quality control procedures are shown to attain the same or higher degree of compliance as the procedures set forth in this section: *Provided, however, That* all cured turkey ham products produced shall be subject to the applicable minimum PFF content requirement, regardless of any quality control procedures in effect.

3. Section 381.171 would be amended by revising paragraph (c) and adding a new paragraph (g) to read as follows:

§ 381.171 Definition and standard for "Turkey Ham".

* * * * *

(c) "Turkey Ham" shall comply with minimum meat Protein Fat Free (PFF) percentage requirements set forth in the following chart:

Product name and qualifying statements	Minimum meat PFF percentage ¹
Turkey Ham—Cured Turkey Thigh Meat.....	20.5
Turkey Ham—Cured Turkey Thigh Meat with Natural Juices.....	18.5
Turkey Ham—Cured Turkey Thigh Meat—Water Added.....	17.0
Turkey Ham—Cured Turkey Thigh Meat and Water Product—15 percent of Weight is Added Ingredient ²	16.5
Turkey Ham—Cured Turkey Meat and Water Product—20 percent of Weight is Added Ingredients ²	15.5

¹ The minimum meat PFF percentage shall be the minimum meat protein which is indigenous to the raw unprocessed thigh meat expressed as a percent of the non-fat portion of the finished product, and compliance shall be determined under § 381.153 of this subchapter.

² Processors may immediately follow this qualifying statement with a list of the ingredients in descending order of predominance rather than having the traditional ingredients statement. A prerequisite for label approval of these products is a quality control program approved by the Administrator.

* * * * *

(g) "Turkey Ham" prepared pursuant to this section shall be subject to the compliance procedures in § 381.154 of this subchapter.

Done at Washington, DC., on February 15, 1989.

Lester M. Crawford,

Administrator, Food Safety and Inspection Service.

[FR Doc. 89-3896 Filed 2-17-89; 8:45 am]

BILLING CODE 3410-0M-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 88-NM-192-AD]

Airworthiness Directives; British Aerospace Model BAC 1-11 200 and 400 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to revise an existing airworthiness directive (AD), applicable to British Aerospace Model BAC 1-11 200 and 400 series airplanes, which currently requires repetitive visual and eddy current inspections of the fuselage longitudinal skin splices. That action was prompted by reports of loose rivets and cracks extending from the splice rivet holes. This proposal would require additional inspections of the fuselage skin lap splices on airplanes which have accumulated more than 50,000 landings, would revise

various inspection intervals, and would require repair of any damage prior to further flight. This action is prompted by results of the manufacturer's structural audit, which revealed loose rivets and cracks extending from the splice rivet holes. This condition, if not corrected, could lead to structural failure of the fuselage.

DATES: Comments must be received no later than April 10, 1989.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 88-NM-192-AD 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from British Aerospace, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. William Schroeder, Standardization Branch, ANM-113; telephone (206) 431-1565. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA,

Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 88-NM-192-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

On July 22, 1983, FAA issued AD 83-15-08, Amendment 39-4697 (48 FR 34731; August 1, 1983), applicable to British Aerospace Model BAC 1-11 200 and 400 series airplanes, which requires repetitive visual and eddy current inspections of the fuselage longitudinal skin splices. That action was prompted by reports of loose rivets and cracks extending from the splice rivet holes.

Since issuance of the AD, the United Kingdom Civil Aviation Authority (CAA) has notified the FAA that a structural audit performed by the manufacturer has revealed the need to conduct more frequent inspections for cracks of the fuselage longitudinal skin splices on airplanes which have accumulated more than 50,000 landings. Since the subject cracking is related to fatigue, additional inspections of the higher-time airplanes will ensure early detection and repair of cracks before a condition is present which would compromise the structural integrity of the fuselage. This condition, if not corrected, could lead to structural failure of the fuselage.

British Aerospace has issued Alert Service Bulletin 53-A-PM5726, Issue 3, dated May 26, 1988, which provides procedures for additional visual and eddy current inspections of the fuselage lap splices on airplanes which have accumulated more than 50,000 landings, and repair, if necessary. The United Kingdom CAA has classified this service bulletin as mandatory.

This airplane model is manufactured in the United Kingdom and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement.

Since this condition is likely to exist or develop on other airplanes of this same type design registered in the United States, an AD is proposed which would amend AD 83-15-08 to require additional visual and eddy current inspections of fuselage skin lap splices on airplanes which have accumulated more than 50,000 landings, and repair, if necessary, prior to further flight, in accordance with the service bulletin previously mentioned.

The FAA proposes to delete the following paragraph from the AD:

"Note: Acceptable incorporation of the BAC 1-11 Supplemental Inspection Document

(SID) into the approved airplane maintenance program of a BAC 1-11 operator constitutes an approved alternate means of compliance.

The FAA has determined that the SID program does not fully cover the inspections proposed by this AD.

The proposed rule would reduce the initial lap joint inspection threshold time for airplanes having average flight lengths of less than one hour; lengthen the inspection intervals for airplanes operating at cabin differential pressure reduced to 6.0 PSI; and reduce certain threshold and repetitive inspection intervals for airplanes operating at 7.75 and 8.2 PSI cabin differential pressure.

Although the British Aerospace service bulletin provides for conducting continued operations with cracks that do not exceed specified limits, the FAA has determined that continued operation of airplanes with damage is unacceptable when undetected multiple site damage may be involved, and the proposed AD would require repair of damaged parts prior to further flight.

It is estimated that 70 airplanes of U.S. registry would be affected by this AD, that it would take approximately 12 manhours per airplane to accomplish the required actions, and that the average labor cost would be \$40 per manhour. Based on these figures, the total cost

impact of the AD on U.S. operators is estimated to be \$33,600.

The regulations proposed herein would not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For these reasons, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities because few, if any, Model BAC 1-11 series airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By revising AD 83-15-08, Amendment 39-4697 (48 FR 34731; August 1, 1983), as follows:

British Aerospace: Applies to all Model BAC 1-11 200 and 400 series airplanes, certificated in any category. Compliance is required as indicated unless previously accomplished.

To prevent structural failure of the fuselage, accomplish the following:

A. Perform initial and repetitive visual and eddy current inspections of fuselage skin lap joints at the intervals shown in Table I of this AD, in accordance with Section 2 of the Accomplishment Instructions of British Aerospace Alert Service Bulletin 53-A-PM5726, Issue 3, dated May 26, 1988.

TABLE I

Airplanes affected	AD 83-15-08 previously complied with	Initial inspection threshold for this AD	Repetitive inspection interval
Airplanes operated only at standard cabin pressure of 7.5 PSI max cabin differential pressure.	No	Whichever occurs later: —Within 1250 landings after September 6, 1983 (Effective date of AD 83-15-08) or, upon accumulating the number of landings determined by Figure 1 of British Aerospace Alert Service Bulletin 53-A-PM5726, Revision 3, dated May 26, 1988.	For airplanes with less than 50,000 Landings. Visual Inspection: —Every 1,250 landings. Eddy Current Inspection: —Every 3,750 landings.
	Yes	Visual inspection: —Within 1250 landings after the last visual inspection in accordance AD 83-15-08. Eddy Current inspection: —Within 3750 landings after the last eddy current inspection in accordance with AD 83-15-08.	For airplanes with 50,000 or more landings. Visual Inspection: —Every 1,875 landings. Eddy Current inspection: —Every 3,750 landings.
Airplanes operated at increased cabin pressure of 7.75 PSI max cabin differential pressure.	No	Whichever occurs later: —Within 1,250 landings after September 6, 1983 (effective date of AD 83-15-08) or, —Upon accumulation of 35,000 landings	Visual Inspection: —Every 1,600 landings. Eddy Current Inspection: —Every 3,200 landings.
	Yes	Visual inspection: —Within 1,600 landings after the last visual inspection in accordance with AD 83-15-08. Eddy Current inspection: —Within 3,200 landings after the last eddy current inspection in accordance with AD 83-15-08.	
Airplanes operated at increased cabin pressure of 8.2 PSI max cabin differential pressure.	No	Whichever occurs later: —Within 1,250 landings after September 6, 1983 (effective date of AD 83-15-08) or, —Upon accumulation of 30,000 landings.	Visual Inspection —Every 1,250 landings. Eddy Current inspection: —Every 2,500 landings.
	Yes	Visual inspection: —Within 1,250 landings after the visual inspection in accordance with AD 83-15-08. Eddy Current inspection: —Within 2,500 landings after the last eddy current inspection in accordance with AD 83-15-08.	

TABLE I—Continued

Airplanes affected	AD 83-15-08 previously complied with	Initial inspection threshold for this AD	Repetitive inspection interval
Airplanes for which cabin max operating pressure is reduced to 6.0 PSI max cabin differential pressure.	No or Yes (as applicable).	Visual inspection: —The same as shown above for the max cabin differential pressure applicable to the airplane in question. Eddy Current inspection: —The same as shown above for the max cabin differential pressure applicable to the airplane in question.	For all airplanes: Visual inspection: —Every 1,875 landings. Eddy Current inspection: —Every 5,600 landings.

B. Repair any cracks or damage prior to further flight, in accordance with paragraph 2.4.2 of British Aerospace Alert Service Bulletin 53-A-PM5728, Issue 3, dated May 26, 1988, or Chapter 53-02-0, Figure 89, of the BAC 1-11 Structural Repair Manual, whichever is appropriate; or in a manner approved by the Manager, Standardization Branch, ANM-113, FAA Northwest Mountain Region.

C. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Northwest Mountain Region.

Note: The request should be forwarded through the FAA Principal Maintenance Inspector (PMI), who may add any comments and then send it to the Manager, Standardization Branch, ANM-113.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of the modifications required by this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to British Aerospace, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on February 7, 1989.

Leroy A. Keith,
Manager, Transport Airplane Directorate,
Aircraft Certification Service.

[FR Doc. 89-3908 Filed 2-17-89; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 88-NM-214-AD]

Airworthiness Directives; McDonnell Douglas Model DC-10 Series Airplanes Equipped With Lavatories H and J

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes a new airworthiness directive (AD), applicable to McDonnell Douglas Model DC-10 series airplanes equipped with lavatories H and J, which would require modification of the electrical terminal caps on overhead light assemblies installed in those lavatories to seal the terminals. This proposal is prompted by reports of an electrical short in the light assembly terminal cap. This condition, if not corrected, could result in an in-flight fire in the overhead of a lavatory if an electrical short occurs and the insulation blanket above the light assembly is loose.

DATES: Comments must be received no later than April 18, 1989.

ADDRESSES: Send comments on the proposal in duplicate to Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 88-NM-214-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director of Publications, C1-L00 (54-60). This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. Richard S. Saul, Aerospace Engineer, Systems and Equipment Branch, ANM-130L, FAA, Northwest Mountain Region, Los Angeles Aircraft

Certification Office, 3229 East Spring Street, Long Beach, California 90806-2425; telephone (213) 988-5342.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 88-NM-214-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

An operator of a McDonnell Douglas Model DC-10 series airplane reported to McDonnell Douglas evidence of electrical arcing in overhead fluorescent light assembly terminals on light assemblies installed in H and J lavatories. This prompted McDonnell Douglas to issue Service Bulletin 25-350 in May of 1988, recommending that operators seal the electrical terminals of the light assembly in order to prevent

the accumulation of moisture and dust and minimize the possibility of an electrical short. Recently, another operator of a Model DC-10 airplane reported hearing an electrical shorting noise during a functional check of a fluorescent light in the H lavatory. Flames were also observed coming from the insulation blanket above the light assembly. The circuit breaker for the lavatory overhead light was manually opened and a small fire in the insulation blanket above the light was extinguished. Normally, adequate clearance exists between the light assembly and the light fixture. During maintenance, however, the blankets apparently were loosened and came into contact with the light assembly. Inspection of the lamp assembly revealed evidence of shorting and burning at the lighting assembly electrical terminals. Inspection also revealed that the procedures recommended in McDonnell Douglas Service Bulletin 25-350 had not been accomplished. This condition, if not corrected, could result in an in-flight fire in the overhead of a lavatory.

The FAA has reviewed and approved McDonnell Douglas Service Bulletin 25-350, dated May 5, 1988, which describes sealing the electrical terminal caps on overhead light assemblies installed in lavatories H and J.

Since this condition is likely to exist or develop on other airplanes of this same type design, an AD is proposed which would require modification in accordance with the service bulletin previously mentioned.

There are approximately 428 McDonnell Douglas Model DC-10 series airplanes in the worldwide fleet. It is estimated that 58 airplanes of U.S. registry would be affected by this AD, that it would take approximately 5.4 manhours per airplane to accomplish the required actions, and that the average labor cost would be \$40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be \$12,528.

The regulations proposed herein would not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For these reasons, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291

and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities because few, if any, Model DC-10 series airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

McDonnell Douglas: Applies to McDonnell Douglas Model DC-10 series airplanes equipped with lavatories H and J, as listed in McDonnell Douglas Service Bulletin 25-350, dated May 5, 1988, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent fire resulting from an electrical short in the H and J lavatory overhead light assembly terminal cap, accomplish the following:

A. Within 60 days after the effective date of this airworthiness directive (AD), modify the electrical terminal caps on the overhead light assemblies in lavatories H and J, in accordance with the Accomplishment Instructions of McDonnell Douglas Service Bulletin 25-350, dated May 5, 1988.

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

Note.—The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who may add any comments and then send it to the Manager, Los Angeles Aircraft Certification Office.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director of Publications, C1-L00 (54-60). These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California 90846-2425.

Issued in Seattle, Washington, on February 9, 1989.

Leroy A. Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89-3905 Filed 2-17-89; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 88-NM-194-AD]

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes a new airworthiness directive (AD), applicable to certain Boeing Model 747 series airplanes, which would require inspection of the skin joints in the fuselage upper lobe for skin cracks and corrosion, and repair, if necessary. This proposal is prompted by service experience showing that the cold adhesive bond used in the skin joints of the first 200 Model 747's is not reliable. This adhesive bond has been found disbonded in other applications on the Model 747 and other Boeing airplane models. A disbonded skin joint will result in premature fatigue cracking of the fuselage skin, possibly in combination with corrosion of the disbonded skin surfaces. This condition, if not detected and corrected, could lead to rapid decompression of the airplane and the inability to carry fail-safe loads.

DATES: Comments must be received no later than April 18, 1989.

ADDRESSES: Send comments on the proposal in duplicate to Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 88-NM-194-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. Th

applicable service information may be obtained from Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Richard H. Yarges, Airframe Branch, ANM-120S; telephone (206) 431-1925. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 88-NM-194-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

A review of the structural integrity of the Model 747 pressurized fuselage skin splices was conducted by the FAA, following an accident involving a Boeing Model 737 airplane in which a cold adhesive bonding technique used in the construction of the skin joints may have contributed to the failure of a portion of the fuselage. This cold bonding process was used for the lap joints in the production of the first 200 Model 747

airplanes. Lap joint bonding was incorporated to improve the fatigue quality of riveted skin joints by reducing load transfer through the rivets.

Service experience has shown, however, that this bond is unreliable. It has been found disbonded in certain applications on Model 747 airplanes and in applications on other Boeing airplane models. The loss of the bond will result in earlier and more rapid development of fatigue cracking in fuselage skins, than would be the case if the bond remains intact. Also, a failed bond line is frequently the site of corrosion development. The skin lap joints in the lower lobe of the Model 747 fuselage are the subject of FAA airworthiness directive 88-09-07-R1, Amendment 39-5580 (52 FR 7564; March 12, 1987), because of disbonding, corrosion, and fatigue cracking problems. Disbonding, corrosion, and the attendant fatigue cracking tend to be most severe in the lower lobe due to moisture accumulation in that area. The skin lap joints in the upper lobe of the fuselage have exhibited generally good service experience to date and, therefore, are not currently subject to FAA airworthiness directive action.

Notwithstanding the absence of adverse service experience with the upper lobe skin lap joints on the Model 747, the FAA has determined that delamination may exist or develop, undetected, in that area, since there is currently no reliable way, in service, to assess the bond integrity in a non-destructive manner. The cracking and/or corrosion which could develop in such delaminated areas must be detected in a timely manner to maintain the structural integrity of the fuselage. Therefore, the rule proposed herein would require visual inspections of the upper lobe skin lap joints. The intervals for inspection, specified in this proposal are based on analytical predictions for crack growth, since service experience is unavailable.

Service experience with other airplane models also suggests that, in such disbonded joints, fatigue may initiate at multiple sites (at a large number of fastener holes on a single line of fasteners). This cracking pattern is difficult to detect visually before it reaches critical proportions because individual cracks are small; but this pattern is detectable using high frequency eddy current (HFEC) inspection. Therefore, the proposed rule includes requirements for HFEC inspections of a skin panel lap joint if cracks or corrosion are detected visually there. The results of the HFEC inspection would be required to be reported to the FAA. These reports will

be used to identify the onset of widespread cracking, for use in scheduling possible modifications and/or additional repetitive inspections.

The visual and eddy current inspections proposed in this Notice would be required to be conducted in an environment that does not inhibit clear view of the fastener head. Accordingly, this proposed rule requires that paint be removed prior to inspection, using an approved chemical stripper, or that the fastener be clearly visible through the paint and no more than two coats of paint are on the airplane. This proposal is equivalent to the requirements of AD-88-22-11, Amendment 39-6059 (53 FR 44156; November 1, 1988) which requires similar inspections of Model 737 series airplanes. The two-coat paint criteria was developed by the FAA as an objective standard to minimize improper use of inspection equipment and enhance detection of cracks. Since the issuance of AD 88-22-11, the FAA has received information that an inspection standard based on the number of coats of paint may not reliably define acceptable surface conditions, due to the wide variation in coat thicknesses. The FAA, therefore, requests comments intended to develop an inspection standard that assures the most accurate possible results without requiring unnecessary paint stripping.

There are approximately 195 Model 747 series airplanes of the affected design in the worldwide fleet. It is estimated that 110 airplanes of U.S. registry would be affected by this AD, that it would take approximately 100 manhours per airplane to accomplish the required actions, and that the average labor cost would be \$40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be \$440,000.

Information collection requirements contained in this regulation have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and have been assigned OMB Control Number 2120-0056.

The regulations proposed herein would not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For these reasons, the FAA has determined that this document (1)

involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities because few, if any, Model 747 series airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation Safety, Aircraft.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.1 [AMENDED]

2. By adding the following new airworthiness directive:

Boeing: Applies to Model 747 series airplanes, production line numbers 1 through 200, certified in any category. Compliance required as indicated, unless previously accomplished.

To prevent depressurization resulting from cracks and/or corrosion in the fuselage skins, accomplish the following:

A. Within 1,000 landings after the effective date of this AD, and thereafter at intervals not to exceed 1,000 landings, conduct a detailed external visual inspection of the upper row of fasteners of all skin lap joints at and above stringer S-23 from body station (BS) 140 to BS 2360 for cracks and evidence of corrosion (bulging skin between fasteners, blistered paint, dished or popped rivet heads, or loose fasteners).

B. If cracking or corrosion is detected during the inspection required by paragraph A., above, prior to further flight, conduct High Frequency Eddy Current (HFEC) inspection for cracks at the upper row of fasteners of the affected skin panel lap joint. The HFEC method used must be approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

1. Any cracks or corrosion detected during the HFEC inspection must be repaired prior to further flight, in accordance with the Boeing Model 747 Structural Repair Manual.

2. Within 7 days after the completion of the HFEC inspection, submit a written report of findings to the Manager, Seattle Aircraft Certification Office, ANM-100S, FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The report must contain the following information:

- Serial number of the airplane inspected;
- Total number of landings on the airplane inspected;
- Number of landings since last inspected;
- The location and dimensions of cracks and/or corrosion detected.

C. To conduct the inspections required by this AD, remove the paint, using an approved chemical stripper, or ensure that the fastener head is clearly visible and that no more than two coats of paint are on the airplane skin.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

E. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

Note.—The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who may add any comments and then send it to the Manager, Seattle Aircraft Certification Office.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on February 9, 1989.

Leroy A. Keith,

*Manager, Transport Airplane Directorate,
Aircraft Certification Service.*

[FR Doc. 89-3904 Filed 2-17-89; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 355

[Docket No. 80N-0042]

Anticaries Drug Products for Over-the-Counter Human Use; Tentative Final Monograph; Reopening of Record for Receipt of Comments

AGENCY: Food and Drug Administration.

ACTION: Notice of proposed rulemaking; reopening of record for receipt of comments.

SUMMARY: The Food and Drug Administration (FDA) is reopening the record of the amendment to the tentative final monograph for over-the-counter (OTC) anticaries drug products for the receipt of comments. This action responds to a request to extend the comment period.

DATE: Comments by March 13, 1989.

ADDRESS. Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, Center for Drug Evaluation and Research (HFD-210), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8000.

SUPPLEMENTARY INFORMATION: In the Federal Register of June 15, 1988 (53 FR 22430), FDA issued a notice of proposed rulemaking that amended the tentative final monograph for OTC anticaries drug products. That notice contained the agency's proposals regarding final formulation testing, i.e., "Laboratory Testing Profiles" (LTPs), for Category I active ingredients in dentifrice formulations, and issues relating to this testing. This notice of proposed rulemaking is part of the ongoing review of OTC drug products conducted by the agency. Interested persons were given until October 13, 1988, to submit comments.

One comment from the American Dental Association (ADA) (Ref. 1) stated that all fluoride-containing dentifrice products should either be clinically tested or be equivalent to clinically-tested products. The ADA indicated that, in order to qualify as an equivalent product, a dentifrice should have a fluoride/abrasive system similar to a clinically tested effective product. The ADA expressed concern that the agency's proposed monograph would permit the marketing of any dentifrice containing an established fluoride agent, regardless of what abrasive system (either tested or untested) is used. The ADA argued that "due to the very limited nature of laboratory tests required by the monograph, there is no guarantee that the fluoride agent will be biochemically available during the very limited exposure periods associated with brushing." The ADA also expressed concern that the agency would allow marketing of products with new fluoride/abrasive systems that

have no history of clinical testing. Stating that its own product review has shown that abrasives can play a critical role in the rate of release/availability of the fluoride ion, the ADA contended that only clinically tested fluoride/abrasive systems should be eligible for review under the OTC anticaries monograph and that untested systems should be required to provide clinical data to support efficacy.

The ADA further noted that some dentifrice products contain agents that inhibit calculus formation and thus influence the calcification/decalcification process associated with caries. The ADA recommended that either animal caries or remineralization studies be required for this category of products to guard against the potential inactivation of the fluoride agent by a nontherapeutic additive.

The Cosmetic, Toiletry and Fragrance Association (CTFA) (Ref. 2) subsequently submitted a request to extend the period for submission of comments on FDA's proposed rulemaking to allow time to comment on ADA's comments. The CTFA stated that the ADA's position regarding the efficacy of a fluoride dentifrice product differs significantly from the agency's proposals in the tentative final monograph for OTC anticaries drug products as published in the *Federal Register* of June 15, 1988. The CTFA stated that the issues raised in the ADA's comments are complex and will require some extensive review and analysis, which will necessitate the scheduling of several meetings of its members to discuss the issues. Based on the anticipated time needed to meet and develop comments, the CTFA stated that it would need approximately 150 days to adequately address the issues raised by ADA and requested an extension of the comment period until March 13, 1989.

FDA has carefully considered the request and believes that a reopening of the record to allow full opportunity for informed comments on the amendment to the tentative final monograph regarding appropriate testing requirements for dentifrices with fluoride/abrasive systems that have not been clinically tested or that contain an ingredient that inhibits calculus formation is in the public interest. Accordingly, the record is reopened for the receipt of comments until March 13, 1989. Comments may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m. Monday through Friday.

References

(1) Comment No. C00070, Docket No. 80N-0042, Dockets Management Branch.

(2) Comment No. EXT00005, Docket No. 80N-0042, Dockets Management Branch.

Dated: February 10, 1989.

Alan L. Hoeting,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 89-3865 Filed 2-17-89; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF STATE

Office of Foreign Missions

22 CFR Part 151

[Dept. Reg. SD-224]

Compulsory Liability Insurance for Foreign Missions and Personnel

AGENCY: Office of Foreign Missions, State.

ACTION: Proposed rule.

SUMMARY: The Office of Foreign Missions of the Department of State proposes to amend 22 CFR 151.4, which sets minimum limits of liability for motor-vehicle insurance for foreign diplomatic missions and their personnel. The minimum limits are changed from "not less than \$300,000 combined single limit for all bodily injury liability and property damage liability arising from a single incident," to "not less than \$100,000 per person and \$300,000 per incident for bodily injury liability and \$100,000 per incident for property damage or \$300,000 combined single limit for all bodily injury liability and property damage liability arising from a single incident." The adequacy of the changed minimum limits was confirmed as part of the Study and Report concerning the Status of Individuals with Diplomatic Immunity in the United States presented to Congress on March 18, 1988, as mandated by the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989, section 137, Pub. L. 100-204. The changed minimum limits also more accurately reflects the Office of Foreign Missions practice and the availability of insurance policies since combined single limit policies are not available in all cases.

DATES: Comments must be submitted on or before March 23, 1989.

ADDRESSES: U.S. Department of State, Office of Foreign Missions, Insurance Tracking Unit, 3005 Massachusetts Avenue NW., Washington, DC 20008.

FOR FURTHER INFORMATION CONTACT: E. Richard Atkinson, Senior Operations

Officer, Office of Foreign Missions (202) 673-6266.

SUPPLEMENTARY INFORMATION: Section 6 of the Diplomatic Relations Act required the President to establish, by regulation, liability insurance requirements to be met by each mission, members of the mission and their families, and those officials of the United Nations who are entitled to diplomatic immunity. The President delegated this function to the Secretary of State, who issued regulations on May 21, 1979. Congress amended section 6 in 1983 to substitute the Director of the Office of Foreign Missions within the Department of State for the President, and added the condition that the liability insurance requirements "reasonably be expected to afford adequate compensation to victims."

The Director of the Office of Foreign Missions has determined that an adequate level of liability insurance is provided by policies with limits of \$100,000 per person and \$300,000 per incident for bodily injury and \$100,000 per incident for property damage or of \$300,000 combined single limit for all bodily injury and property damage from a single incident. The adequacy of these minimum limits was confirmed as part of the Study and Report concerning the Status of Individuals with Diplomatic Immunity in the United States presented to Congress on March 18, 1988, as mandated by the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989, section 137, Pub. L. 100-204. These minimum limits also reflect the Office of Foreign Missions practice and the availability of insurance policies since combined single limit policies are not available in all cases.

List of Subjects in 22 CFR Part 151

Aircrafts, Foreign officials, Insurance, Motor vehicles, Vessels.

For reasons set forth in the preamble, Title 22, Chapter I of the Code of Federal Regulations, Part 151 is proposed to be amended as follows:

PART 151—[AMENDED]

1. The authority citation for Part 151 continues to read as follows:

Authority: Sec. 6, Diplomatic Relations Act (Pub. L. 95-393; 22 U.S.C. 254e) as amended (Pub. L. 98-164, sec. 602; 22 U.S.C. 254e).

2. Section 151.4 is revised to read as follows:

§ 151.4 Minimum limits for motor vehicle insurance.

The insurance shall provide not less than \$100,000 per person and \$300,000 per incident for bodily injury liability

and \$100,000 per incident for property damage or \$300,000 combined single limit for all bodily injury liability and property damage liability arising from a single incident, except where the Director of the Office of Foreign Missions grants a special exception.

Harry Porter,

Acting Deputy Director, Office of Foreign Missions.

January 17, 1989.

[FR Doc. 89-3875 Filed 2-17-89; 8:45 am]

BILLING CODE 4710-06-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 89-24, RM-6540]

Radio Broadcasting Services; Princeville, HI

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Charles Carrell, proposing the allotment of Channel 250C1 to Princeville, Hawaii, as that community's first local FM service. The coordinates for the proposal are 22-00-00 and 159-22-50.

DATES: Comments must be dated on or before April 3, 1989, and reply comments on or before April 18, 1989.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: Julian P. Freret, Booth, Freret & Imlay, 1920 N Street, NW., Suite 520, Washington, DC 20036 (Counsel for Petitioner).

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 89-24, adopted January 24, 1989, and released February 10, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Steve Kaminer,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-3964 Filed 2-17-89; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 89-17, RM-6543]

Radio Broadcasting Services; Warren Grove, NJ

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition by General Electronics Development Corporation proposing the allotment of Channel 289A to Warren Grove, NJ, as a first local FM service. Channel 289A can be allotted in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction. The coordinates for this allotment are North Latitude 39-44-47 and West Longitude 74-22-15. Petitioner is requested to furnish additional information sufficient to determine that Warren Grove is a community for allotment purposes.

DATES: Comments must be filed on or before April 7, 1989, and reply comments on or before April 24, 1989.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: William L. Bruce, III, Esq., Stanford & Bruce, 34 East Main Street, Mays Landing, New Jersey 08330-1798 (Counsel to petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 89-17, adopted January 25, 1989, and released February 15, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Steve Kaminer,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-3965 Filed 2-17-89; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 89-11, RM-6553]

Radio Broadcasting Services; Mount Gilead, OH

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition by the Ohio Bible Study Group requesting the allotment of Channel 236A to Mount Gilead, Ohio, as the community's first local FM service. Channel 236A can be allotted to Mount Gilead in compliance with the Commission's minimum distance separation requirements with a site restriction of 2.8 kilometers (1.7 miles) northeast to avoid a short-spacing to Station WSNY, Columbus, Ohio, and Station WKTN, Kenton, Ohio. The coordinates for this allotment are North Latitude 40-34-16 and West Longitude

82-49-00. Canadian concurrence is required since Mount Gilead is located within 320 kilometers of the U.S.-Canadian border.

DATES: Comments must be filed on or before April 10, 1989, and reply comments on or before April 25, 1989.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Allan G. Moskowitz, Esq., Kaye, Scholer, Fierman, Hays & Handler, The McPherson Building, 901 15th Street, NW., Suite 1100, Washington, DC 20005 (Counsel to petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 89-11, adopted January 19, 1989, and released February 15, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Steve Kaminer,

Deputy Chief, Policy and Rules Division,
Mass Media Bureau.

[FR Doc. 89-3966 Filed 2-17-89; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 89-21, RM-6566]

Radio Broadcasting Services; Grove City, PA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition by Gary P. Hummel, Robert A. Hogue and Michael Troliano seeking the allotment for Channel 270A to Grove City, Pennsylvania, as the community's second local FM service. Channel 270A can be allotted to Grove City in compliance with the Commission's minimum distance separation requirements with a site restriction of 7.2 kilometers (4.5 miles) west to avoid a short-spacing to noncommercial educational station WSAJ-FM, Channel 216A, Grove City, Pennsylvania. Canadian concurrence is required since Grove City is located within 320 kilometers of the U.S.-Canadian border.

DATES: Comments must be filed on or before April 3, 1989, and reply comments on or before April 18, 1989.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Jack W. Cline, Esq., Stranahan & Stranahan, 101 S. Pitt Street, P.O. Box 206, Mercer, Pennsylvania 16137 (Counsel to petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 89-21, adopted January 25, 1989, and released February 10, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex*

parte contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Steve Kaminer,

Deputy Chief, Policy and Rules Division,
Mass Media Bureau.

[FR Doc. 89-3963 Filed 2-17-89; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 89-14, RM-6524]

Radio Broadcasting Services; Hot Springs and Pine Ridge, SD

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition by Tracy and Valerie Bastian proposing the substitution of Channel 244C1 for Channel 244A at Hot Springs, South Dakota, the modification of their license for station KZMX(FM) to specify operation on the higher powered channel, and the substitution of Channel 228A for unused and unapplied for Channel 243A at Pine Ridge, South Dakota. Channel 244C1 can be allotted to Hot Springs in compliance with the Commission's minimum distance separation requirements and can be used at station KZMX(FM)'s present transmitter site. The coordinates for this allotment are North Latitude 43-26-34 and West Longitude 103-27-27. Channel 228A can be allotted to Pine Ridge in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction. The coordinates for this allotment are North Latitude 43-01-06 and West Longitude 102-33-24.

DATES: Comments must be filed on or before April 10, 1989, and reply comments on or before April 25, 1989.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Neal J. Friedman, Pepper & Corazzini, 200 Montgomery Building, 1776 K Street, NW., Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 89-14, adopted January 17, 1989, and released February 15, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedure for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission
Steve Kaminer,

Deputy Chief, Policy and Rules Division,
Mass Media Bureau.

[FR Doc. 89-3962 Filed 2-17-89; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 89-23, RM-6616]

Radio Broadcasting Services; Springfield and Tallahassee, FL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition by Royal Palm Communications Inc., licensee of Station WRBA(FM), Channel 240A at Springfield, Florida, proposing the substitution of Channel 240C1 for Channel 240A at Springfield and modification of its license to specify operation on the higher class co-channel. In order to accomplish the Springfield substitution, the substitution of Channel 241A for Channel 240A,

Station WTMG(FM), at Tallahassee, Florida, is required. The coordinates for Channel 240C1 at Springfield at its current site are 30-12-12 and 85-36-57, and the coordinates for Tallahassee at its current site are 30-27-46 and 84-18-04.

DATES: Comments must be filed on or before April 3, 1989, and reply comments on or before April 18, 1989.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: Lawrence Roberts and Mark N. Lipp, Mullin, Rhyne, Emmons and Toppel, P.C., 1000 Connecticut Avenue NW., Suite 500, Washington, DC 20036 (Attorneys for petitioner).

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 89-23, adopted January 24, 1989, and released February 10, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedure for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.
Steve Kaminer,

Deputy Chief, Policy and Rules Division,
Mass Media Bureau.

[FR Doc. 89-3969 Filed 2-17-89; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 89-20, RM-6574]

Radio Broadcasting Services; Jeffersonville, NY

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition by Edward F. Stanley seeking the allotment of Channel 291A of Jeffersonville, New York, as the community's first local FM service. Channel 291A can be allotted to Jeffersonville in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction. The coordinates for this allotment are North Latitude 41-46-51 and West Longitude 74-56-03. Canadian concurrence is required since Jeffersonville is located within 320 kilometers of the U.S.-Canadian border.

DATES: Comments must be filed on or before April 3, 1989, and reply comments on or before April 18, 1989.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Marnie K. Sarver, Esq., Pierson, Ball & Dowd, 1200 18th Street NW., Washington, DC 20036 (Counsel to petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 89-20, adopted January 25, 1989, and released February 10, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission

consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Steve Kaminer,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-3967 Filed 2-17-89; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 89-18, RM-6510, RM-6586]

Radio Broadcasting Services; Clinton and Saint Pauls, NC, Chesterfield, SC

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on two mutually exclusive petitions for rule making. Sampson Broadcasting Co., Inc. requests the substitution of Channel 295C2 for Channel 297A at Clinton, North Carolina, and the modification of its license for Station WCLN-FM to specify the higher powered channel. In order to accommodate the Clinton substitution, Sampson also requests the substitution of Channel 297A for Channel 295A at Saint Pauls, North Carolina, which is unoccupied but applied for. C. Curtis Sigmon proposes the allotment of Channel 297A to Chesterfield, South Carolina, as the community's first local FM service. Saint Pauls, NC, and Chesterfield, SC, are located insufficiently far apart to allow for the co-channel allotments.

DATES: Comments must be filed on or before April 7, 1989, and reply comments on or before April 24, 1989.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Jack W. Whitley, Esq., 27 Pine Avenue, Takoma Park, Maryland 20912 (Counsel to Sampson) and C. Curtis Sigmon, 8 Park Drive, York, South Carolina 29745 (Petitioner for Chesterfield).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 89-18, adopted January 25, 1989, and released February 15, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding. Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

Channel 295C2 can be allotted to Clinton in compliance with the Commission's minimum distance separation requirements with a site restriction of 8.4 kilometers (5.2 miles) south to accommodate Sampson's desired transmitter site. The coordinates for this allotment are North Latitude 34-55-39 and West Longitude 78-17-30. Channel 297A can be allotted to Saint Pauls in compliance with the Commission's minimum distance separation requirements and can be used at the site specified in the pending application of Lumbee Regional Development Association, Inc. (ARN-880727MN). The coordinates for this allotment are North Latitude 34-42-59 and West Longitude 78-56-51. Channel 297A can be allotted to Chesterfield in compliance with the Commission's minimum distance separation requirements with a site restriction of 6.4 kilometers (4.2 miles) southeast to avoid a short-spacing to Station WRHM, Channel 296A, Lancaster, South Carolina, and to the application of Station WKZL, Channel 298C, Winston-Salem, North Carolina. The coordinates for this allotment are North Latitude 34-40-52 and West Longitude 80-03-03.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Steve Kaminer,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-3960 Filed 2-17-89; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 89-19, RM-6575]

Radio Broadcasting Services; South Congaree, SC

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition by Mills Communications seeking the allotment of Channel 226A to South Congaree, South Carolina, as the community's first local FM service. Channel 226A can be allotted to South Congaree in compliance with the Commission's minimum distance separation requirements with a site restriction of 7.4 kilometers (4.6 miles) southwest to avoid a short-spacing to Station WCEZ, Columbia, South Carolina. The coordinates for this allotment are North Latitude 33-51-10 and West Longitude 81-10-34.

DATES: Comments must be filed on or before April 3, 1989, and reply comments on or before April 18, 1989.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Earl R. Stanley, Esq., Wilkinson, Barker, Knauer & Quinn, 1735 New York Avenue, NW., Washington, DC 20006 (Counsel to petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 89-19, adopted January 25, 1989, and released February 10, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Steve Kaminer,

Deputy Chief, Policy and Rules Division,
Mass Media Bureau.

[FR Doc. 89-3968 Filed 2-17-89; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1016

[Ex Parte No. 55; Sub-No. 52]

Special Procedures Governing the Recovery of Expenses by Parties to Commission Adjudicatory Proceedings

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: In 1981, the Commission adopted rules at 49 CFR Part 1016 implementing the Equal Access to Justice Act. By its own terms, the Act was repealed on October 1, 1984. In 1985, the Act was recodified with certain amendments (Pub. L. No. 99-80, 99 Stat. 183 and made effective for cases begun on or after October 1, 1984). The Commission proposes to amend its rules to reflect the recodified and amended Act.

DATE: Comments are due March 23, 1989.

ADDRESS: Send an original and 10 copies of comments referring to Ex Parte No. 55 (Sub-No. 52) to: Case Control Branch, Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT:

Richard R. Hartley, 202-275-7786

or

Richard B. Felder, 202-275-7691
[TDD for hearing impaired: (202) 275-1721]

SUPPLEMENTARY INFORMATION:

Additional information is contained in the Commission's decision. To obtain a copy of the full decision, write to, call, or pick up in person from: Office of the Secretary, Room 2215, Interstate Commerce Commission, Washington, DC 20423. Telephone: (202) 275-7428. [Assistance for the hearing impaired is available through TDD Services (202) 275-1721.]

Energy and Environment

We preliminarily conclude that the proposed rules will not significantly affect the quality of the human environment or the conservation of energy resources.

Regulatory Flexibility

We preliminarily certify that the proposed amendments will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 49 CFR Part 1016

Claims, Equal access to justice, and Lawyers.

Decided: February 10, 1989.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Andre, Lamboley, and Phillips.

Noreta R. McGee,

Secretary.

Title 49 of the Code of Federal Regulations is proposed to be amended as follows:

PART 1016—SPECIAL PROCEDURES GOVERNING THE RECOVERY OF EXPENSES BY PARTIES TO COMMISSION ADJUDICATORY PROCEEDINGS.

1. The authority citation for Part 1016 is revised to read as follows:

Authority: 49 U.S.C. 10321, 5 U.S.C. 504(c)(1), and 5 U.S.C. 553.

PART 1016—[AMENDED]

2. Section 1016.102 is proposed to be revised to read as follows:

§ 1016.102 When the Act applies.

The Act applies to any adversary adjudication pending before the Commission after October 1, 1981. This includes proceedings begun before October 1, 1981, if final Commission action has not been taken before that date, regardless of when they were initiated or when final Commission action occurs. These rules incorporate the changes made in Pub. L. No. 99-80, 99 Stat. 183, which applies generally to cases instituted after October 1, 1984. If awards are sought for cases pending on October 1, 1981 or filed between that

date and September 30, 1984, the prior statutory provisions (to the extent they differ from the existing ones, and our implementing rules) apply.

§ 1016.104 [Amended]

3. Section 1016.104 is proposed to be amended by removing the words "an initial" and "initial" before "decision", respectively, in the two places the phrase appears.

4. Section 1016.105, paragraph (a) is proposed to be amended by changing the United States Code citation to "5 U.S.C. 504(b)(1)(B)".

5. Section 1016.105, paragraph (b) is proposed to be revised to read as follows:

§ 1016.105 Eligibility of applicants.

* * * * *

(b) The types of eligible applicants are as follows:

(1) An individual whose net worth did not exceed \$2 million at the time the adversary adjudication was initiated;

(2) Any owner of an unincorporated business, or any partnership, corporation, association, unit of local government, or organization whose net worth does not exceed \$7 million and which had no more than 500 employees at the time the adversary adjudication was initiated;

(3) Any organization described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)(3)) exempt from taxation under section 501(a) of such Code, or a cooperative association as defined in section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a)), may be a party regardless of the net worth of such organization or cooperative association.

* * * * *

6. Section 1016.105, paragraph (d), is proposed to be removed and paragraphs (e) through (g) would be redesignated paragraphs (d) through (f).

7. Section 1016.106, paragraph (a), is proposed to be revised to read as follows:

§ 1016.106 Standards for awards.

(a) A prevailing applicant may receive an award for fees and expenses incurred in connection with a proceeding, or in a significant and discrete substantive portion of the proceeding, unless the position of the agency over which the applicant has prevailed was substantially justified. Whether or not the position of the agency was substantially justified shall be determined on the basis of the administrative record made in the adversary adjudication for which fees and other expenses are sought. The

burden of proof that an award should not be made to an eligible prevailing applicant is on the agency counsel, which may avoid an award by showing that its position was reasonable in law and fact.

* * * * *

8. Section 1016.107, paragraph (b) is proposed to be revised to read as follows:

§ 1016.107 Allowable fees and expenses.

* * * * *

(b) No award for the fee of an attorney or agent under these rules may exceed \$75.00 per hour, unless a higher fee is justified. 5 U.S.C. 504(b)(1)(A). However, an award may also include the reasonable expenses of the attorney, agent, or witness as a separate item, if the attorney, agent, or witness ordinarily charges clients separately for such expenses.

* * * * *

§ 1016.108 [Removed]

9. Section 1016.108 is proposed to be removed.

10. Section 1016.201, paragraph (b), is proposed to be revised to read as follows:

§ 1016.201 Contents of application.

* * * * *

(b) The application shall also include a statement that the applicant's net worth does not exceed \$2 million (if an individual) or \$7 million (for all other applicants, including their affiliates). However, an applicant may omit this statement if:

(1) It attaches a copy of a ruling by the Internal Revenue Service that it

qualifies as an organization described in section 501(c)(3) of the Internal Revenue Code (26 U.S.C. 501(c)(3)) exempt from taxation under section 501(a) of such Code; or

(2) It states that it is a cooperative association as defined in section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a)).

* * * * *

11. Section 1016.202, paragraph (a) is proposed to be amended by removing the words "except a qualified tax-exempt organization or cooperative association" in the first sentence.

12. Section 1016.202, paragraph (b) is proposed to be revised to read as follows:

§ 1016.202 Net worth exhibit.

* * * * *

(b) Ordinarily, the net worth exhibit will be included in the public record of the proceeding. However, an applicant that objects to public disclosure of information in any portion of the exhibit and believes that there are legal grounds for withholding it from disclosure may file a motion to withhold the information from public disclosure. The burden is on the moving party to justify the confidentiality of the information.

§ 1016.301 [Amended]

13. Section 1016.301, paragraph (c) is proposed to be amended by removing the reference to § 1100.98 and adding the references §§ 1115.2 and 1115.3 in its place.

§ 1016.303 [Amended]

14. Section 1016.303, paragraph (b) is proposed to be amended by removing

the last 3 lines and adding "be granted as justified."

§ 1016.305 [Amended]

15. Section 1016.305 is proposed to be amended by removing the last sentence and adding the sentence "A commenting party may not broaden the issues."

16. Section 1016.307, paragraph (a) is proposed to be revised to read as follows:

§ 1016.307 Further proceedings.

(a) Ordinarily, the determination of an award will be made on the basis of the written record. However, on request of either the applicant or agency counsel or on his or her own initiative, the adjudicative officer may order further proceedings when necessary.

* * * * *

§ 1016.308 [Amended]

17. Section 1016.308 is proposed to be amended by substituting the phrase "a decision" for "an initial decision".

18. Section 1016.309 is proposed to be revised to read as follows:

§ 1016.309 Agency review.

In the event the adjudicative officer is not the entire Commission, the applicant or agency counsel may seek review of the initial decision on the fee application, or the Commission may review the decision on its own initiative, in accordance with § 1115.2. If no appeal is taken, the initial decision becomes the action of the Commission 20 days after it is issued. If the adjudicative officer is the entire Commission, § 1115.3 applies.

[FR Doc. 89-3862 Filed 2-17-89; 8:45 am]

BILLING CODE 7035-01-M

Notices

Federal Register

Vol. 54, No. 33

Tuesday, February 21, 1989

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ACTION

Summer Youth Illicit Drug Prevention Demonstration Grants; Availability of Funds

ACTION: Notice of Availability of Funds.

ACTION, the Federal Domestic Volunteer Agency, announces the availability of funds during fiscal year 1989 for summer youth illicit drug use prevention grants under the Special Volunteer Programs authorized by the Domestic Volunteer Service Act of 1973, as amended (Pub. L. 93-113, Title 1, Part C; 42 U.S.C. 4992). The Omnibus Drug Abuse Act of 1988 (Pub. L. 100-690) enables ACTION to make grants to public and nonprofit organizations for innovative, community-based volunteer demonstration projects which provide comprehensive drug abuse education and prevention services and activities to youth during the summer months.

ACTION, historically a principal source of volunteer leadership in America, has been mandated by the President and Congress to respond to the crisis of illegal drug use by fostering innovative prevention programs that capitalize on volunteer resources on the local level. Volunteers of all ages and from every segment of the community can make vital contributions to drug prevention and awareness programs, and ACTION intends to support programs which encourage and sustain the spirit of voluntarism as a weapon in America's fight against drugs.

As documented by the White House Conference for a Drug-Free America, the best strategy to combat illegal drug use is to prevent it from starting. Effective prevention requires the involvement of every segment of the community, recognizing that no single approach will work in every locale. Comprehensive approaches assure that clear, consistent "no use" messages are delivered and reinforced by a variety of community resources. Reinforced by the provision of the Omnibus Drug Abuse Act of 1988,

there is growing recognition of the importance of involving youth in illicit drug use prevention activities during the summer months when schools are not in session and school-related prevention information and support is unavailable.

There is increasing attention being paid to the value and importance of providing youth the opportunity to participate in structured volunteer community service. As well as the obvious benefits to the community, there is increasing acceptance of the notion of "immunization"—that community service may in fact reduce the risk of drug involvement among participating youth by reinforcing good work habits, helping enhance self-esteem and establish a sense of belonging within the community, and providing positive role models.

While research on this "immunizing" effect is underway, it is clear that voluntary service can be of significant value to the community and to the participating youth. Accordingly, ACTION is very interested in efforts to combine voluntary service with drug prevention activity to maximize the likelihood of stopping drug use before it begins. There is particular need for such programming in many low income communities, as the needs in such communities that may be met through voluntary service are often great and the youth who live in these areas are generally considered at extremely high risk for drug involvement.

National or regional/multi-state youth serving organizations that have local affiliates or that have networks of local organizations are in a unique leadership position to involve youth in meaningful structured summer volunteer community service programs that include a component of illicit drug use prevention. These programs can be implemented locally by the affiliates or the members of the network with the assistance of the "parent" organization in a wide variety of geographic areas and diverse high-risk youth populations. America's youth, who are often confronted by peer pressure and other encouragement to use illegal drugs, constitute the most important target for anti-drug programming. Drug-free youth also constitute a tremendous resource for a community's drug prevention effort and for other forms of community service. There is a critical need to develop programs which enable local

communities to tap this resource. This announcement solicits innovative proposals in response to that need.

A. Eligible Strategy

National or regional/multi-state youth serving organizations are encouraged to submit proposals to implement the following strategy by: (a) extending an existing program into the summer, (b) expanding an existing summer program, or (c) developing a new summer program.

Strategy. The ideal program will provide structured non-stipended volunteer community service opportunities to youth during the summer months and include an organized component of drug prevention activity appropriate for program participants. It will involve parents, use non-stipended volunteers in its operation, and target youth at high risk of becoming involved in the use of illegal drugs, especially youth from low-income communities, public housing developments, single parent or broken homes, and children of substance abusers.

1. Community Service Component. Community service opportunities for non-stipended youth volunteers may include crime and illicit drug use prevention activities, community beautification and development activities, assistance to the needy, the elderly and the impaired, etc. A structured community service program should require a commitment of a specific number of hours, have adult supervision, and offer individual or group recognition for services rendered.

2. Drug Prevention Component. The drug prevention component may include group presentations, workshops, rallies, leadership training, peer counseling and theatrical or musical performances that involve the presentation of accurate anti-drug information. This component should be integral to the community service component, and should be structured utilizing non-stipended volunteers with a specific number of hours on a regular schedule for program participants. The involvement of other drug prevention resources from the community is encouraged.

B. Eligible Applicants

Only applications from private non-profit incorporated organizations and public agencies will be considered.

ACTION strongly encourages national or regional/multi-state youth serving organizations with local affiliates or a network of local organizations to develop applications for funding under this Notice. Applicants must evidence willingness and capacity to:

1. Provide leadership and encouragement to local affiliates or member organizations to implement program at the local level.
2. Provide technical assistance, curricula, materials, support and publicity to assist the local affiliates and organizations to work with local drug use prevention coalitions and networks to implement the program in their communities using non-stipended volunteers.

Any applicant who does not adhere to a strict policy of the non-use of illicit drugs will not be eligible for consideration. Furthermore, an application will be ineligible if it refers to philosophy, proposed activities, or training or educational materials implying that the initial or responsible use of any illicit drug, or the illicit use of any legal drug, will be tolerated by the applicant. This issue must be addressed in the application.

C. Available Funds and Scope of the Grant

The amount of a grant is not to exceed \$150,000.

Publication of this announcement does not obligate ACTION to award any specific number of grants or to obligate any specific amount of money for these grants. Projects funded under this announcement may receive funds for a time period sufficient to plan and conduct an illicit drug use prevention education program for youth for Summer 1989.

D. General Criteria for Grant Review and Selection

Grant applications will be reviewed and evaluated based on the criteria outlined below, as appropriate, as well as conformance to the instructions included in the application. Grant applicants with a demonstrated competence in conducting summer youth programs, particularly with volunteers, will be given preference.

1. Ability and plans to develop or expand an illicit drug use prevention summer program for high-risk youth that provides illicit drug use prevention activity and structured volunteer community service opportunities.

2. Ability and plans to support the implementation of the summer prevention program by local affiliates or member organizations.

3. Ability and plans of local affiliates and organizations to recruit, train, utilize and retain non-stipended volunteers.

4. Ability and plans to provide services to youth at high risk of illicit drug use.

5. Ability and plans to involve parents in the provision of services to at-risk youth.

6. Plans to continue the illicit drug use prevention activities (including community service) beyond the summer or to incorporate the activities into future summer youth programs, without additional funding from ACTION.

7. Ability and plans for local affiliates and organizations to work with local prevention networks and coalitions to implement the summer program.

8. Carefully formulated schedule for achieving objectives, including continuation of project, and feasibility of methods for meeting those objectives.

9. While specific levels of matching funds are not mandatory, evidence of public and private sector support (financial and in-kind) at local and national levels is strongly encouraged and will be considered in the decision-making process. Applicants capable of such contributions should specify the sources and nature of in-kind and other non-federal contributions. These contributions must be deemed allowable costs in accordance with ACTION requirements and be supported by a detailed budget narrative listing the source of that support and the formula used to compute those costs.

E. Additional Factors

The Associate Director of Domestic and Anti-Poverty Operations may use additional factors in choosing among applicants who meet the minimum criteria specified above, such as:

1. Geographic distribution;
2. Applicants accessibility to alternate resources, both technical and financial;
3. Allocation of Program Demonstration/Drug Alliance resources in relation to other ACTION funds;

F. Application Review Process

Applications submitted under this announcement will be reviewed and evaluated by ACTION's Program Demonstration and Development Division. ACTION's Associate Director for Domestic and Anti-Poverty Operations will make the final selection. ACTION reserves the right to ask for evidence of any claims of past performance or future capability.

G. Application Submission and Deadline

One signed original and two copies of all completed applications must be submitted to ACTION's Program

Demonstration and Development Division/Drug Alliance no later than 5:00 p.m. Eastern Standard Time on April 10, 1989. Only those applications that are received at ACTION Headquarters by 5:00 p.m. Eastern Standard Time on this date will be eligible.

All grant applications must consist of:

- a. Application for Federal Assistance (ACTION Form A-1036) with narrative budget justification and a narrative of project goals and objectives, and assurances.

- b. CPA certification of accounting capability.

- c. Articles of Incorporation.

- d. Proof of non-profit status or an application for non-profit status, which should be made through documentation.

Items b, c and d above are not required for public agencies of state and local government.

- e. Current resume of the candidate for the position of project director, if available, or the current resume of the director of the applicant agency or project.

- f. Organization chart of the applicant organization showing how the project is related to the organization and how participating affiliates are related to the organization.

- g. List of the current board of directors showing their names, addresses and organizational and community affiliations.

To receive an application kit, please contact ACTION's Program Demonstration and Development Division/Drug Alliance. The application kit can be obtained by writing to: ACTION, Program Demonstration and Development/Drug Alliance, Room M-513, 806 Connecticut Avenue, NW., Washington, DC 20525, or by telephoning (202) 634-9757.

Signed at Washington, DC, this 13th day of February 1989.

Donna M. Alvarado,
Director.

[FR Doc. 89-3883 Filed 2-17-89; 8:45 am]

BILLING CODE 6050-28-M

DEPARTMENT OF AGRICULTURE

Soil Conservation Service

Lower Mud River Watershed, WV; Intent To Prepare Environmental Impact Statement

AGENCY: Soil Conservation Service,
USDA.

ACTION: Notice of intent to prepare an
environmental impact statement.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is being prepared for the Lower Mud River Watershed, Cabell, Lincoln, and Putnam Counties, West Virginia.

FOR FURTHER INFORMATION CONTACT: Rollin N. Swank, State Conservationist, Soil Conservation Service, 75 High Street, Room 301, Morgantown, West Virginia 26505, telephone (304) 291-4151.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project may cause significant local, regional, or national impacts on the environment. As a result of these findings, Rollin N. Swank, State Conservationist, has determined that the preparation and review of an environmental impact statement are needed for this project.

The project concerns a plan for watershed protection and flood prevention. Alternatives under consideration to reach these objectives include conservation land treatment, nonstructural measures, channel work, and dikes.

A draft environmental impact statement will be prepared and circulated for review by agencies and the public. The Soil Conservation Service invites participation and consultation of agencies and individuals that have special expertise, legal jurisdiction, or interest in the preparation of the draft environmental impact statement. Meetings have been held with various resource agency personnel to determine the scope of the evaluation of the proposed action. Further information on the proposed action, or planned meetings may be obtained from Rollin N. Swank, State Conservationist, at the above address or telephone (304) 291-4151.

Rollin N. Swank,
State Conservationist.

Date: February 10, 1989.

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.904—Watershed Protection and Flood Prevention—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials.)

[FR Doc. 89-3918 Filed 2-17-89; 8:45 am]

BILLING CODE 3410-16-M

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census

Title: Survey of Sole Proprietorships

Form Number: EC-104

Agency Approval Number: None

Type of Request: New

Burden: 1,938 hours

Number of Respondents: 7,750

Avg Hours Per Response: 15 minutes

Needs and Uses: The Bureau of the Census will use the results from this survey to estimate undercoverage in the sole proprietorship component of the 1987 Economic Censuses. The Bureau of Economic Analysis will use the data to update several major components of the adjustment that account for misreporting of tax return information used to estimate gross national product.

Affected Public: Individuals or households

Frequency: One time

Respondent's Obligation: Mandatory

OMB Desk Officer: Francine Picoult, 395-7340

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-3271, Department of Commerce, Room H6622, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Francine Picoult, OMB Desk Officer, Room 3208, New Executive Office Building, Washington, DC 20503.

Dated: February 15, 1989.

Edward Michals,
Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 89-3948 Filed 2-17-89; 8:45 am]

BILLING CODE 3510-07-M

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census

Title: Address Listing Book and

Quality Control Advance Listing, Post Enumeration Survey, 21st Decennial Census—1990

Form Number: D-1302, D-1314

Type of Request: New

Burden: 3,600 hours

Number of Respondents: 225,000

Avg Hours Per Response: 1 minute

Needs and Uses: This survey will obtain addresses of housing units to be interviewed in the 1990 Decennial Census Post Enumeration Survey. The data will be used by the Bureau of the Census to evaluate the coverage of the 1990 census.

Affected Public: Individuals or households

Frequency: One-time

Respondent's Obligation: Mandatory

OMB Desk Officer: Francine Picoult, 395-7340

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-3271, Department of Commerce, Room H6622, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Francine Picoult, OMB Desk Officer, Room 3208, New Executive Office Building, Washington, DC 20503.

Dated: February 15, 1989.

Edward Michals,
Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 89-3949 Filed 2-17-89; 8:45 am]

BILLING CODE 3510-07-M

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census

Title: Housing Vacancy Survey

Form Number: HVS-1

Agency Approval Number: 0607-0179

Type of Request: Revision

Burden: 3,700 hours

Number of Respondents: 6,000

Avg Hours Per Response: 3 minutes (average)

Needs and Uses: This survey provides quarterly estimates of national, regional, and state vacancy rates by various characteristics and homeownership rates. The data are used by researchers to gauge the housing inventory over time.

Affected Public: Individuals or households

Frequency: Monthly

Respondent's Obligation: Voluntary

OMB Desk Officer: Francine Picoult, 395-7340

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-3271, Department of Commerce, Room H6622, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Francine Picoult, OMB Desk Officer, Room 3208, New Executive Office Building, Washington, DC 20503.

Dated: February 15, 1989.

Edward Michals,
*Departmental Clearance Officer, Office of
Management and Organization.*

[FR Doc. 89-3950 Filed 2-17-89; 8:45 am]

BILLING CODE 3510-07-M

Bureau of Export Administration

[Case No. OEE-1-88]

Wilfried Lange, et al.; Order Renewing Temporary Denial of Export Privileges

The Office of Export Enforcement, Bureau of Export Administration, United States Department of Commerce (Department), pursuant to the provisions of § 788.19 of the Export Administration Regulation, 15 CFR Parts 768-799 (the Regulations),¹ issued pursuant to the Export Administration Act of 1979, 50 U.S.C. app. 2401-2420 (1982 and Supp. III 1985), as amended by Pub. L. 100-418, 102 Stat. 1107 (August 23, 1988)) (the Act), has asked the Assistant Secretary for Export Enforcement² to renew an order temporarily denying all United States export privileges to Wilfried Lange (Lange), individually and doing business as Purchasing Pool Company (PPC) and PPC Computer Handles GmbH (PCH). The initial order was issued on April 20, 1988 (53 FR 15253, April 28, 1988). It was renewed effective June 20, 1988 (53 FR 23294, June 21, 1988), and was renewed again on August 19, 1988 (53 FR 32639, August 26, 1988), October 18, 1988 (53 FR 43249, October 26, 1988) and December 17, 1988 (53 FR 52207, December 27, 1988).

In its renewal request of January 26, 1989, the Department states that it is in

the process of reviewing a recommendation for action leading to a final resolution of this matter. That recommendation arises from the Department's investigation of Lange's activities that formed the basis for the original temporary denial order in this matter and all subsequent renewals.

Although the Department has completed its investigation of Lange, it believes that, Lange's past pattern of conduct demonstrates that there is a likelihood that he will commit future violations of the Act and the Regulations. Accordingly, for the reasons set forth below, until a final order in this matter is entered, Lange's export privileges should continue to be temporarily denied.

First, the Department states that, on numerous occasions since the end of 1985, Lange has reexported, without the required reexport authorization, U.S.-origin computers which are controlled for reasons of national security from West Germany to Austria, Yugoslavia and Hungary.

The Department also asserts that Lange has provided it with false and misleading information. Specifically, in response to a request from the Department that Lange identify the firms who purchased U.S.-origin equipment from him, Lange provided the Department with false invoices in an effort to hide the fact that he had reexported controlled U.S.-origin commodities from West Germany without the required reexport authorization.

In addition, the Department states that a contract for two U.S.-origin computers, which are controlled for reasons of national security, exists between PPC and a Czechoslovakian foreign trading firm. The Department also believes that Lange and PPC may have recently tried to fulfill that contract by trying to obtain, under the name of PPC Computer Handles GmbH, two U.S.-origin DEC VAX 8350 computer systems from a supplier in the United Kingdom.

The Department continues to believe that Lange's past activities establish that the violations of the Act and the Regulations which Lange is suspected of having committed were deliberate and covert and are likely to occur again unless appropriate action is taken to reduce the likelihood that Lange, PPC and PCH can continue to acquire U.S.-origin goods either inside or outside of the United States. In addition, the Department believes that renewal of the temporary denial order is necessary to give notice to companies in the United States and abroad that they should

cease dealing with Lange, PPC and PPC Computer Handles GmbH in transactions involving U.S.-origin goods.

Therefore, based on the showing made by the Department in its request for renewal, which neither Lange, PPC nor PCH has opposed, I find that an order temporarily having denying export privileges to Lange, PPC and PCH is necessary in the public interest to prevent an imminent violation of the Act and the Regulations and to give notice to companies in the United States and abroad to cease dealing with Lange, PPC and PCH in goods and technical data subject to the Act and the Regulations in order to reduce the substantial likelihood that Lange, PPC and PCH will continue to engage in activities which are in violation of the Act and the Regulations.

Accordingly, it is hereby
ORDERED

I

All outstanding validated export licenses in which Wilfried Lange, Purchasing Pool Company or PPC Computer Handles GmbH appear or participate, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Licensing for cancellation. Further, all of Lange's, PPC's and PCH's privileges of participating, in any manner or capacity, in any special licensing procedure, including, but not limited to, distribution licenses, are hereby revoked.

II

Respondents Wilfried Lange, Purchasing Pool Company and PPC Computer Handles GmbH, all with an address at AM Stelg 3, 8913 Schondorf, Federal Republic of Germany, their successors or assignees, officers, partners, representatives, agents, and employees hereby are denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported or to be exported from the United States, in whole or in part, or that are otherwise subject to the Regulations. Without limiting the generality of the foregoing, participation, either in the United States or abroad, shall include participation, directly or indirectly, in any manner or capacity: (a) As a party or as a representative of a party to any export license application submitted to the Department, (b) in preparing or filing with the Department any export license application or reexport authorization, or any document to be submitted therewith, (c) in obtaining or using any

¹ Effective October 1, 1988, the Export Administration Regulations were redesignated as 15 CFR Parts 768-799 (53 FR 37751, September 28, 1988). The transfer merely changed the first number of each Part from "3" to "7". Until such time as the Code of Federal Regulations is republished, the Regulations may be found in 15 CFR Parts 368-399 (1988).

² In accordance with Department Organization Order 50-1, dated March 23, 1988, the Assistant Secretary for Export Enforcement is now the Department official who issues temporary denial orders.

validated or general export license or other export control document, (d) in carrying on negotiations with respect to, or in receiving, ordering, buying, selling, delivering, storing, using, or disposing of, in whole or in part, any commodities or technical data exported from the United States, or to be exported, and (e) in financing, forwarding, transporting, or other servicing of such commodities or technical data. Such denial of export privileges shall extend only to those commodities and technical data which are subject to the Act and the Regulations.

III

After notice and opportunity for comment, such denial of export privileges may be made applicable to any person, firm, corporation, or business organization with which Lange, PPC or PCH is now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of trade or related services.

IV

No person, firm, corporation, partnership or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Office of Export Licensing shall, with respect to U.S.-origin commodities and technical data, do any of the following acts, directly or indirectly, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of or in any association with Lange, PPC or PCH or any related party, or whereby Lange, PPC or PCH or any related party may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly: (a) Apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any export, reexport, transshipment, or diversion of any commodity or technical data exported in whole or in part, or to be exported by, to, or for Lange, PPC or PCH or any related party denied export privileges; or (b) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate in any export, reexport, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States.

V

In accordance with the provisions of § 788.19(e) of the Regulations, Lange, PPC or PCH may, at any time, appeal this temporary denial order by filing

with the Office of Administrative Law Judges, U.S. Department of Commerce, Room H-6716, 14th Street and Constitution Avenue, NW., Washington, DC 20230, a full written statement in support of the appeal.

VI

This order shall remain in effect for 180 days.

VII

In accordance with the provisions of § 788.19(d) of the Regulations, the Department may seek renewal of this temporary denial order by filing a written request not later than 20 days before the expiration date. Lange, PPC or PCH may oppose a request to renew this temporary denial order by filing a written submission with the Assistant Secretary for Export Enforcement, which must be received not later than seven days before the expiration date of this order.

A copy of this order shall be served on Lange, PPC and PCH and this order shall be published in the **Federal Register**.

Effective Date: February 15, 1989.

William V. Skidmore,

Acting Assistant Secretary for Export Enforcement.

[FR Doc. 89-3955 Filed 2-17-89; 8:45 am]

BILLING CODE 3510-DT-M

International Trade Administration

[Docket No. 90125-9025]

Commercial News USA Catalog Magazine; Contribution Schedule

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce announces an increase in contributions for product and/or service listings and trade show announcements in *Commercial News USA*.

EFFECTIVE DATE: April 1, 1989.

ADDRESSES: Requests for this service should be directed to the Marketing Programs Division, Export Promotion Services, U.S. and Foreign Commercial Service, Room H2106, U.S. Department of Commerce, Washington, DC 20230, or to the nearest Department of Commerce District Office.

FOR FURTHER INFORMATION CONTACT: Annette Napper, 202-377-4918.

SUPPLEMENTARY INFORMATION: Effective April 1, 1989, the basic contribution for a new product and/or service listing including photo is increased to \$250. Contributions for larger-sized product/

service listings are \$1,000 for one-half page; \$2,000 for a full-page listing; \$3,500 for an inside cover; and \$5,000 for a two-page spread. Contributions for trade show announcements are \$2,000 one-half page; \$3,000 full-page; \$5,000 for an inside cover; and \$7,500 for a two-page spread.

Commercial News USA is an export promotion catalog-magazine of the Department of Commerce promoting the overseas sale of U.S.-manufactured products and services. This catalog-magazine is distributed exclusively overseas by U.S. embassies and consulates and reaches key individuals in government and business in 140 countries. Interested parties in foreign countries are urged to contact the U.S. manufacturers directly for further information on listed products.

Authority: Department of Commerce Appropriations, 1989, Pub. L. 100-459, Title I (1988).

Brooks Shumway,

Manager, Export Promotion Services, U.S. & Foreign Commercial Service.

[FR Doc. 89-3959 Filed 2-17-89; 8:45 am]

BILLING CODE 3510-PP-M

Short-Supply Review on Certain Carbon Steel Special Sections; Request for Comments

AGENCY: Import Administration/International Trade Administration, Commerce.

ACTION: Notice and request for comments.

SUMMARY: The Department of Commerce hereby announces its review of a request for a short-supply determination under Article 8 of the U.S.-EC Arrangement on Certain Steel Products, with respect to certain carbon steel special sections.

DATE: Comments must be submitted no later than March 3, 1989.

ADDRESS: Send all comments to Nicholas C. Tolerico, Director, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, Room 7866, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Richard O. Weible, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, Room 7866, 14th Street and Constitution Avenue NW., Washington, DC 20230, (202) 377-0159.

SUPPLEMENTARY INFORMATION: Article 8 of the U.S.-EC Arrangement on Certain Steel Products provides that if the U.S.

... determines that because of abnormal supply or demand factors, the U.S. steel industry will be unable to meet demand in the USA for a particular product (including substantial objective evidence such as allocation, extended delivery periods, or other relevant factors), an additional tonnage shall be allowed for such product or products . . .

We have received a short-supply request for certain carbon steel special sections, under three inches in cross-sectional dimension, for use in the manufacture of window frames.

Any party interested in commenting on this request should send written comments as soon as possible, and no later than March 3, 1989. Comments should focus on the economic factors involved in granting or denying this request.

Commerce will maintain this request and all comments in a public file. Anyone submitting business proprietary information should clearly so label the business proprietary portion of the submission and also provide a non-proprietary submission which can be placed in the public file. The public file will be maintained in the Central Records Unit, Room B-099, Import Administration, U.S. Department of Commerce, at the above address.

Jan W. Mares,

Assistant Secretary for Import Administration.

February 13, 1989.

[FR Doc. 89-3957 Filed 2-17-89; 8:45 am]

BILLING CODE 3510-DS-M

Applications For Duty-Free Entry of Scientific Instruments

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897; 15 CFR Part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with § 301.5(a) (3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 a.m. and 5:00 p.m. in Room 2841, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket number: 87-159R2

Applicant: University of Wisconsin, Department of Biochemistry, 420 Henry Hall, Madison, WI 53706.

Instrument: NMR Spectrometer, Model AM500 with Accessories.

Manufacturer: Bruker Instruments, Switzerland. Original notice of this resubmitted application was published in the **Federal Register** of April 29, 1987.

Docket number: 89-008

Applicant: U.S. Department of Energy, Argonne National Laboratory, 9700 South Cass Avenue, Argonne, IL 60439-4812.

Instrument: Superconducting Magnet. *Manufacturer:* Oxford Instruments, Inc. United Kingdom.

Intended use: The instrument will be used to identify promising new materials for technological applications and study of basic low dimensional magnetic phenomena.

Application received by Commissioner of Customs: October 21, 1988.

Docket Number: 89-046

Applicant: Oregon Health Services University, Center for Occupational Disease Research, 3181 SW. Jackson Park Road, Portland, OR 97201.

Instrument: Electron Microscope, Model JEM-100CX.

Manufacturer: JEOL, Ltd., Japan.

Intended use: The instrument will be used for ultrastructural studies of the pathologic changes in various laboratory animal tissues and nervous system diseases.

Application received by Commissioner of Customs: January 3, 1989.

Docket number: 89-047

Applicant: National Institute of Standards and Technology, Building 221/B128, Gaithersburg, MD 20899.

Instrument: Helium-Three Refrigerator.

Manufacturer: Oxford Instruments, Inc., United Kingdom.

Intended use: The instrument will be used to measure vapor pressure vs. temperature from 0.5 K to 25 K in investigations conducted to define the International Temperature Scale of 1990.

Application received by Commissioner of Customs: January 3, 1989.

Docket number: 89-048

Applicant: University of Texas M.D. Anderson Cancer Center, Department of Pathology—Box 85, 1515 Holcombe, Houston, TX 77030.

Instrument: Electron Microscope, JEM-1200EX/SEG/DP/DP.

Manufacturer: JEOL, Ltd., Japan.

Intended use: The instrument will be used for studies of tumor cell ultrastructure. Experiments will be conducted to: (1) Define the range of ultrastructural changes that occur in human tissues in response to chemotherapeutic agents, (2) determine the ultrastructural features of human tumors of various types and assess the specificity of these features, and (3) correlate findings on the fine structure of human tumor cells, in vivo and in vitro, with the immunocytochemical and morphometric properties of these cells.

Application received by Commissioner of Customs: January 4, 1989.

Docket number: 89-049

Applicant: Baltimore Museum of Art, Art Museum Drive, Baltimore, MD 21218

Instrument: Controlled Heating Device.

Manufacturer: Willard Developments Ltd., United Kingdom.

Intended use: The instrument will be used in the conversion treatment of works of art and in experiments related generally and specifically to the properties of materials.

Application received by Commissioner of Customs: January 4, 1989.

Docket number: 89-050

Applicant: University of North Carolina at Chapel Hill, Pulmonary Medicine, 724 Burnett-Womack Bldg., Chapel Hill, NC 27599-7020.

Instrument: Piezomanipulator for microelectrodes, Model PM20N.

Manufacturer: Biomedizinische Instrumente, West Germany.

Intended use: The instrument will be used to study ion transport activity to mammalian bronchiolar epithelial cells. The overall objective of this research is to define the role that bronchiolar epithelial cells play in salt and water homeostasis in health and disease. The specific disease state of interest is cystic fibrosis. In addition, the instrument will be used for training post-doctoral fellows in current research techniques.

Application received by Commissioner of Customs: January 4, 1989.

Docket number: 89-051

Applicant: University of Mississippi Medical Center, Department of Preventive Medicine, 2500 N. State Street, Jackson, MS 39216-4505.

Instrument: Automated Image Analysis Microscope System for Chromosome Analysis, Model Cytoscan RK2.

Manufacturer: Image Recognition Systems, United Kingdom.

Intended use: The instrument will be used for studies of cells from blood, bone marrow, amniotic fluid, or tissue culture specimens for identification of cell lines with karyotype variations or abnormalities. In addition, the instrument will be used to teach students the basic principles of medical genetics and to develop advanced technical and research skills in special areas.

Application received by: Commissioner of Customs (January 5, 1989)

Docket number: 89-052

Applicant: North Carolina State University, 220 Kilgore Hall Box 7600 Raleigh, NC 27695-7609.

Instrument: Chlorophyll Fluorescence Measuring System.

Manufacturer: Heinz Walz Mess- und Regeltechnik, West Germany

Intended use: The instrument will be used to investigate CO₂ and stress reactions of greenhouse tomatoes and cucumbers. In addition, the instrument will be used in studies of herbicide physiology in a Weed Science program

Application received by: Commissioner of Customs (January 6, 1989).

Frank W. Creel,

Director, Statutory Import Programs Staff.
[FR Doc. 89-3958 Filed 2-17-89; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Pacific Fishery Management Council and its advisory entities will convene public meetings, March 6-10, 1989, at the Clarion Hotel—San Francisco Airport, 401 East Millbrae Avenue, Millbrae, CA, as follows:

Council—will convene March 7 at 8 a.m., in an open session to address salmon management. The Council will define an initial set of management options for the ocean salmon fisheries in 1989. There will be a public comment period at about 4 p.m., to allow the public to address the Council on fisheries issues unrelated to the agenda.

On March 8 the Council will convene at 10 a.m., in closed session (not open to the public), to discuss litigation and personnel matters. The open session will start at 10:30 a.m., to address groundfish management, halibut allocation and

administrative matters. Groundfish topics will include foreign fishing applications and measures to extend the joint venture whiting season. The Council will hear a status report on actions taken by the International Pacific Halibut Commission. Also on March 8 the Council will tentatively adopt salmon management options for impact analysis.

On March 9 the Council will address other salmon management matters, including a methodology review procedure, an annual amendment schedule, a scoping session for 1990 amendments, schedule of hearings, and the status of United States/Canada discussions.

On March 10 the Council will adopt salmon management options for submission to the public review process.

Salmon Advisory Subpanel (SAS)—will convene on March 6 at 8 a.m., to address salmon issues on the Council's agenda, and will reconvene on March 7-9 as necessary.

Scientific and Statistical Committee (SSC)—will convene on March 6 at 11 a.m., to address scientific issues on the Council's agenda, and will reconvene on March 7 at 8 a.m. The SSC will have a public comment period on March 6 at 4 p.m.

Salmon Technical Team—will convene on March 6-10 to assist the SAS, and to analyze salmon management options.

Budget Committee—will convene on March 8 at 8 a.m., to amend the Council's 1989 and 1990 budget submissions.

Foreign Fishing Committee—will convene on March 8 at 8 a.m., to consider 1989 foreign fishing applications, and to address alternatives to extend the joint venture whiting season.

Detailed agendas for the above meetings will be available to the public after February 24, 1989. For further information contact Lawrence D. Six, Executive Director, Pacific Fishery Management Council, Metro Center, Suite 420, 2000 SW., First Avenue, Portland, OR 97201; telephone: (503) 326-6352.

Dated: February 14, 1989.

Richard H. Schaefer,

Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 89-3860 Filed 2-17-89; 8:45 am]

BILLING CODE 3510-22-M

Western Pacific Precious Corals

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of receipt of an application for an experimental fishing permit.

SUMMARY: This notice acknowledges receipt of an experimental fishing permit application and announces a public comment period. The applicant proposes to harvest 10,000 kilograms (kg) of precious coral with a tangle net in the Hawaii exploratory area over a period of two years. The species harvested would be *Corallium secundum* and/or Midway deep sea coral *Corallium sp. nov.* According to § 680.10 of the regulations implementing Amendment 1 to the Fishery Management Plan for the Precious Corals Fishery of the Western Pacific Region, the Secretary of Commerce may issue an experimental permit to harvest coral under conditions that otherwise would be prohibited following review of the application by the Western Pacific Fishery Management Council (Council) and the public. Issuance of a permit of this type is expected to benefit the applicant and to increase the scientific information needed for effective resource management.

DATE: Comments must be received by March 23, 1989.

ADDRESSES: Copies of the experimental permit application are available from, and comments may be submitted to: E.C. Fullerton, Director, Southwest Region, Terminal Island, California 90731, or Doyle E. Gates, Pacific Islands Coordinator, Southwest Region, National Marine Fisheries Service, 2570 Dole Street, Room 106, Honolulu, Hawaii 96822.

FOR FURTHER INFORMATION CONTACT: Doyle Gates, 808-955-8831 or James Morgan, 213-514-6667.

SUPPLEMENTARY INFORMATION: The applicant (Aukai Fishing Company, Ltd.) wishes to harvest 10,000 kg of precious coral over a two-year period. The applicant intends to use a multiple passing method with a tangle net, which is claimed to retain a higher percentage of the coral encountered than a single pass. When the vessel is fishing, lines are deployed and allowed to sink to the bottom. The boat drifts over the coral bed, but does not drag the net under engine power. After a period of time, the net is returned to the surface and the entangled coral is removed. The applicant is willing to carry a scientific observer during the fishing operation depending on cost.

The application will be reviewed by the Council at its 64th regular meeting at the Ala Moana Hotel in Honolulu, Hawaii, on February 16, 1989.

(16 U.S.C. 1801 *et seq.*)

Dated: February 16, 1989.

Alan Dean Parsons,

*Acting Director, Office of Fisheries
Conservation and Management.*

[FR Doc. 89-3915 Filed 2-15-89; 1:43 pm]

BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Federal Acquisition Regulation (FAR); Information Collection Under OMB Review

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Standard Form (SF 1413) Statement and Acknowledgement.

ADDRESS: Send comments to Ms. Eyvette Flynn, FAR Desk Officer, Room 3235, NEOB, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Mr. Jack O'Neill, Office of Federal Acquisition and Regulatory Policy, (202) 523-3856.

SUPPLEMENTARY INFORMATION:

a. *Purpose:* Standard Form 1413, Statement and Acknowledgement, will be used by all Executive Agencies, including the Department of Defense, to obtain a statement from contractors that the proper clauses have been included in subcontracts. The form includes a signed contractor acknowledgement of the inclusion of those clauses in the subcontract.

The information will be used by contracting officers in ascertaining whether or not the contractor has included the proper clauses in subcontracts.

b. *Annual reporting burden:* The annual reporting burden is estimated as follows: Respondents, 2,000; responses per respondent, 1.5; total annual responses, 3,000; hours per response, .15; and total response burden hours, 450.

Obtaining Copies of Proposals: Requester may obtain copies from

General Services Administration, FAR Secretariat (VRS), Room 4041, Washington, DC 20405, telephone (202) 523-4755. Please cite OMB Control No. 9000-0014, Standard Form (SF 1413) Statement and Acknowledgement.

Dated: February 10, 1989.

Margaret A. Willis,

FAR Secretariat.

[FR Doc. 89-3921 Filed 2-17-89; 8:45 am]

BILLING CODE 6820-JC-M

DEPARTMENT OF DEFENSE

Public Information Collection Requirement Submitted to OMB for Review

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title, Applicable Form, and Applicable OMB Control Number: DoD FAR Supplements, Part 244, Subcontracting Policies and Procedures and Related Clauses in Part 252.244; No Form; and OMB Control Number 0704-0253.

Type of Request: Revision.

Average Burden Hours/Minutes Per Response: 20 hours.

Frequency of Response: 1.

Number of Respondents: 1,500.

Annual Burden Hours: 30,000.

Annual Responses: 1,500.

Needs and Uses: This request concerns information collection and recordkeeping requirements related to Contractor Purchasing Systems Review (CPSR). This submission represents a decrease of 14,400 hours from the 44,400 approved by OMB on April 24, 1985.

Affected Public: Businesses or other for-profit; Non-profit institutions; and Small businesses or organizations.

Frequency: On occasion.

Respondents Obligation: Mandatory.

OMB Desk Officer: Ms. Eyvette R. Flynn.

Written comments and recommendations on the proposed information collection should be sent to Ms. Eyvette R. Flynn at Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Ms. Pearl Rascoe-Harrison.

A copy of the information collection proposal may be obtained from Ms.

Rascoe-Harrison, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202-4302, telephone (202) 746-0933.

L.M. Bynum,

*Alternate OSD Federal Register Liaison
Officer, Department of Defense.*

February 14, 1989.

[FR Doc. 89-3912 Filed 2-17-89; 8:45 am]

BILLING CODE 3810-01-M

Public Information Collection Requirement Submitted to OMB for Review

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title, Applicable Form, and Applicable OMB Control Number: DoD FAR Supplements, Part 236, Construction and A-E Contracts, and Part 252.236; No Form; and OMB Control Number 0704-0255.

Type of Request: Revision.

Average Burden Hours/Minutes Per Response: 10 hours.

Frequency of Response: 1.

Number of Respondents: 28,000.

Annual Burden Hours: 280,000.

Annual Responses: 28,000.

Needs and Uses: This request concerns information collection requirements related to Construction and A-E requirements. This submission reflects a decrease of 10,000 hours from the 290,000 hours approved by OMB on April 18, 1986.

Affected Public: Businesses or other for-profit; Non-profit institutions; and Small businesses or organizations.

Frequency: On occasion.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Ms. Eyvette R. Flynn.

Written comments and recommendations on the proposed information collection should be sent to Ms. Eyvette R. Flynn at Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Ms. Pearl Rascoe-Harrison.

A copy of the information collection proposal may be obtained from, Ms. Rascoe-Harrison, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204,

Arlington, Virginia 22202-4302,
telephone (202) 746-0933.

L.M. Bynum,

Alternate OSD Federal Register Liaison
Officer, Department of Defense.

February 14, 1989.

[FR Doc. 89-3910 Filed 2-17-89; 8:45 am]

BILLING CODE 3810-01-M

Department of the Army

Military Traffic Management Command

Directorate of Personal Property; Through Government Bill of Lading Program for Household Goods and Unaccompanied Baggage

AGENCY: Department of the Army, DOD.

ACTION: Invitation to comment on tender of service change on carrier set-off of excess costs incurred by the Government to complete movement of personal property shipments, and to state carrier responsibility for movement of shipments erroneously shipped by the carrier/agent.

SUMMARY: The ITGBL Rate Solicitation addresses set off action for excess costs incurred by the Government to complete movement of a shipment. However, the subject is not presently addressed in the DOD 4500.34R, Appendix A, Tender of Service.

Therefore, it is proposed to add the following *italic* requirement to Appendix A, Para 14:

14. Through Responsibility.

a. All shipments tendered to me will be moved under my responsibility from origin to destination, including joint carriage with duly certified and/or approved carriers who are participants in this tender.

b. *As part of my through responsibility, I understand that if I ship the wrong property or all or a portion of a shipment is sent to the wrong destination, I will be responsible for the return of the erroneous shipment and movement of the correct property to the member's destination at my expense. Movement will be by an expedited method if necessary to prevent further inconvenience to the member. Further, I will be liable for additional costs incurred by the Government to complete movement of a shipment that is delayed or erroneously shipped by me or my agent which are excess to those costs which would have been incurred if I had maintained total through movement of the shipment.*

DATE: Submit written comments by April 10, 1989 to: Headquarters, Military Traffic Management Command, 5611

Columbia Pike, ATTN: MT-PPQ-O,
Falls Church, VA 22041-5050.

Kenneth L. Denton,

Department of the Army, Alternate Liaison
Officer for the Federal Register.

[FR Doc. 89-3919 Filed 2-17-89; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF EDUCATION

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of Proposed Information Collection Requests.

SUMMARY: The Director, Office of Information Resources Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATE: Interested persons are invited to submit comments on or before March 23, 1989.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Jim Houser, Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., Room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Margaret B. Webster, Department of Education, 400 Maryland Avenue, SW., Room 5624, Regional Office Building 3, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Margaret B. Webster, (202) 732-3915.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Director, Office of Information Resources Management, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following:

(1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Frequency of collection; (4) The affected public; (5) Reporting burden; and/or (6) Recordkeeping burden; and (7) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from Margaret Webster at the address specified above.

Dated: February 14, 1989.

Carlos U. Rice,

Director for Office of Information Resources
Management.

Office of Elementary and Secondary Education

Type of Review: New.

Title: Educational Personnel
Training—Drug-Free Schools and
Communities Program Application.

Frequency: One-time.

Affected Public: Individuals or
households, State or local governments,
Non-profit institutions.

Reporting Burden:

Responses: 200.

Burden Hours: 4,800.

Recordkeeping:

Recordkeepers: 0.

Burden Hours: 0.

Abstract: This form will be used by State and local educational agencies and institutions of higher education to apply for funding to train educational personnel under the Drug-Free Schools and Communities Program. The Department will use this information to make grant awards.

[FR Doc. 89-3857 Filed 2-17-89; 8:45 am]

BILLING CODE 4000-01-M

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Office of Information Resources Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATE: Interested persons are invited to submit comments on or before March 23, 1989.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Jim Houser, Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., Room 3208, New Executive Office Building, Washington, DC 20503.

Requests for copies of the proposed information collection requests should be addressed to Margaret B. Webster, Department of Education, 400 Maryland Avenue SW., Room 5624, Regional Office Building 3, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Margaret B. Webster, (202) 732-3915.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Director, Office of Information Resources Management, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following:

(1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Frequency of collection; (4) The affected public; (5) Reporting burden; and/or (6) Recordkeeping burden; and (7) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from Margaret Webster at the address specified above.

Dated: February 15, 1989.

Carlos U. Rice,
Director for Office of Information Resources Management.

Office of Educational Research and Improvement

Type of Review: New.

Title: Application for Grants Under The National School Volunteer Program.

Frequency: Annually.

Affected Public: State or local governments.

Reporting Burden:

Responses: 75.

Burden Hours: 1,800.

Recordkeeping Burden:

Recordkeepers: 0.

Burden Hours: 0.

Abstract: This application is used by state and local agencies, institutes of higher education, and other public and private agencies to apply for awards under the National School Volunteer

Program. The Department uses this information to make grant awards.

[FR Doc. 89-3899 Filed 2-17-89; 8:45 am]
BILLING CODE 4000-01-M

[CFDA No. 84.133B]

National Institute on Disability and Rehabilitation Research (NIDRR); Invitation of Applications for a New Award for a Rehabilitation Research and Training Center Under the National Institute on Disability and Rehabilitation Research for Fiscal Year 1989

Purpose of Program: This program provides funds to institutions of higher education, and organizations affiliated with such institutions, to support comprehensive, interdisciplinary programs of research and training to address the issues in the funding priority on pediatric rehabilitation published previously in proposed form in the Federal Register.

Deadline for Transmittal of Applications: April 18, 1989.

Applications Available: February 21, 1989.

Available Funds: \$741,000.

Estimated Number of Awards: 1.

Note: The Department of Education is not bound by any estimates in this notice, except as otherwise provided by statute.

Project Period: Up to 60 months.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR), in 34 CFR Parts 74, 75, 77, 80, and 85, and (b) The regulations for this program in 34 CFR Part 352.

It is the policy of the Department of Education not to solicit applications before the publication of a notice of final priorities. However, in this case it is essential to solicit applications for this competition on the basis of the notice of proposed funding priority published in the Federal Register on January 5, 1989 at 54 FR 378 because the Rehabilitation Act Amendments of 1986 require that NIDRR make site visits as part of the peer review process before awarding grants above \$299,999. In order to complete the site visit process and still make awards in a timely manner, the Department must solicit applications at this time.

Further, the Secretary has not received any substantive comments on the Notice of Proposed Priority and does not anticipate making any substantive changes in the final priority. However, if any substantive changes are made in the notice of final funding priority, applicants will be given an opportunity to amend or resubmit their applications.

For Applications or Information

Contact: National Institute on Disability and Rehabilitation Research, U.S. Department of Education, 400 Maryland Avenue SW., Switzer Building, Room 3070, Washington, DC, 20202. Telephone: (202) 732-1207; deaf and hearing impaired individuals may call (202) 732-1198 for TDD services.

Program Authority: 29 U.S.C. 762(b)(1).

Dated: February 15, 1989.

Madeleine Will,

Assistant Secretary, Special Education and Rehabilitative Services.

[FR Doc. 89-3900 Filed 2-17-89; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP89-692-000]

Amerada Hess Corp.; Petition for Declaratory Order

February 14, 1989

Take notice that on January 24, 1989, Amerada Hess Corporation (Amerada), 218 West 6th Street, Tulsa, Oklahoma 74119, filed in Docket No. CP89-692-000 a petition for an order declaring that certain proposed natural gas pipeline facilities in offshore Louisiana are gathering facilities pursuant to section 1(b) of the Natural Gas Act and therefore exempt from the Commission's certificate jurisdiction, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

Amerada states that it, Marathon Oil Company, Phillips Petroleum Company and Transco Exploration Company own two federal leases covering South Timbalier Area blocks 205 and 206, offshore Louisiana. Each party owns 25 percent working interest in the two blocks. The working interest owners have drilled several exploratory wells and have discovered natural gas in commercial quantities.

Amerada states that as operator of the two blocks, it is planning to construct and operate a 16-inch diameter line from Block 206 to a point of interconnection with either Chevron Oil Company's (Chevron) 6-inch Venice Gathering System at South Timbalier Block 151 of Trunkline Pipeline Company's 24-inch transmission line in South Timbalier Block 175. Amerada states that if the interconnection is with Chevron's system, the line will be 13 miles long; if the interconnection is with Trunkline's line, the line will be 11 miles long. The

line will be owned by the working interest owners and operated by Amerada.

The proposed line will have sufficient capacity (150,000 Mcf per day) to transport 100 percent of the natural gas expected to be produced from the proposed Block 206 production platform which will also include production from Block 205. As many as 13 wells may be produced from the Block 206 platform and gathered in the proposed line. Amerada states that the line has been designed to gather gas owned by working interest owners in the adjacent South Timbalier Block 225. No compression of the gas is contemplated on the Block 206 platform or along the proposed line during the first few years of production.

Amerada states that in the event the interconnection is with Chevron's system, Chevron will transport the gas to an onshore gas processing plant owned by Chevron at Venice, Louisiana, where water and condensate will be removed and the gas processed for removal of liquefiable hydrocarbons, if economical. In the event the interconnection is with Trunkline's line, Trunkline will transport the gas onshore to its Terrebonne Liquid Handling Terminal near Patterson, Louisiana, where water and condensate will be removed and, if economical, the gas will be processed at one of several processing plants in the area for removal of liquefiable hydrocarbons. Amerada states that in either case the production activities will not be complete until the gas is finally processed to pipeline transmission quality at points downstream of the proposed facilities.

Amerada argues that the proposed line is non-jurisdictional because it is located in the producing area, is designed solely to deliver gas from the Block 206 platform to either Trunkline or Chevron for transportation to onshore facilities, there are no compressors or processing facilities on the platform or along the proposed line itself, and the modest length and diameter of the line reflect a gathering function.

Any person desiring to be heard or to make any protest with reference to said petition should on or before March 7, 1989, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to

make the protestants parties to the proceeding.

Lois D. Cashell,

Secretary.

[FR Doc. 89-3944 Filed 2-17-89; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2331, South Carolina]

Duke Power Co.; Intent To File an Application for a New License

February 15, 1989

Take notice that on December 29, 1988, Duke Power Company, the existing licensee for the Ninety-Nine Islands Hydroelectric Project No. 2331, filed a notice of intent to file an application for a new license, pursuant to section 15(b)(1) of the Federal Power Act (Act), 16 U.S.C. 808, as amended by section 4 of the Electric Consumers Protection Act of 1986, Pub. L. 99-495. The original license for Project No. 2331 was issued effective April 1, 1962, and expires December 31, 1993.

The project is located on the Broad River in Cherokee County, South Carolina. The principal works of the Ninety-Nine Islands Project include a dam with an 891-foot-long concrete spillway section, a 120-foot-long concrete bulkhead section to the west bank, a 196.73-foot-long concrete intake and powerhouse section, and a 359.5-foot-long concrete bulkhead section to the east bank; a reservoir of 960 acres at elevation 511.1 feet m.s.l.; a powerhouse with installed capacity of 18,000 kW; a transmission line connection; and appurtenant facilities.

Pursuant to section 15(b)(2) of the Act, the licensee is required to make available certain information described in Docket No. RM87-7-000, Order No. (Final Rule issued April 28, 1988). A copy of this Docket can be obtained from the Commission's Public Reference Branch, Room 1000, 825 North Capitol Street, NE., Washington, DC 20426. The above information as described in the rule is now available from the licensee at 422 South Church Street, Charlotte, NC 28242.

Pursuant to section 15(c)(1) of the Act, each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by December 31, 1991.

Lois D. Cashell,

Secretary.

[FR Doc. 89-3937 Filed 2-17-89; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2406, South Carolina]

Duke Power Co.; Intent to File an Application For a New License

February 15, 1989

Take notice that on December 29, 1988, Duke Power Company, the existing licensee for the Saluda Hydroelectric Project No. 2406, filed a notice of intent to file an application for a new license, pursuant to section 15(b)(1) of the Federal Power Act (Act), 16 U.S.C. 808, as amended by section 4 of the Electric Consumers Protection Act of 1986, Pub. L. 99-495. The original license for Project No. 2406 was issued effective May 1, 1968, and expires December 31, 1993.

The project is located on the Saluda River in Greenville and Pickens Counties, South Carolina. The principal works of the Saluda Project include a dam with a 55-foot-high, 274-foot-long concrete gravity spillway section with 3.3-foot-high flashboards, a 108-foot-long powerhouse and intake structure, and 90-foot-long and 24-foot-long bulkhead sections at the banks; a reservoir of 475 acres at elevation 849.0 feet m.s.l.; a powerhouse with an installed capacity of 2,400 kW; a transmission line connection; and appurtenant facilities.

Pursuant to section 15(b)(2) of the Act, the licensee is required to make available certain information described in Docket No. RM87-7-000, Order No. 496 (Final Rule issued April 28, 1988). A copy of this Docket can be obtained from the Commission's Public Reference Branch, Room 1000, 825 North Capitol Street, NW., Washington, DC 20426. The above information as described in the rule is now available from the licensee at 422 South Church Street, Charlotte, NC 28242.

Pursuant to section 15(c)(1) of the Act, each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by December 31, 1991.

Lois D. Cashell,

Secretary.

[FR Doc. 89-3938 Filed 2-17-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP88-225-002]

National Fuel Gas Supply Corp.; Petition to Amend

February 15, 1989.

Take notice that on January 24, 1989, National Fuel Gas Supply Corporation (National Fuel), Ten Lafayette Square, Buffalo, New York 14203, filed in Docket

No. CP88-225-002, a petition, as supplemented February 6, 1989, to amend the certificate of public convenience and necessity issued in Docket No. CP88-225-000, as amended, so as to authorize, for an additional one-year period commencing April 27, 1989, the interruptible transportation of up to 51,718 Mcf of natural gas per day on behalf of National Fuel Gas Distribution Corporation (Distribution) for the account of 81 of its existing end-user customers. National Fuel also seeks authorization to transport up to 11,165 Mcf of natural gas per day for the account of 30 additional customers of Distribution for the same term. Further, National Fuel seeks authorization to increase presently authorized transportation volumes and modify receipt points with respect to certain end-users covered by National Fuel's certificates in Docket Nos. CP88-759-000 and CP87-389-000, as amended, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

It is stated that National Fuel was authorized on April 27, 1988, in Docket No. CP88-225-000 to transport up to 50,119 Mcf of natural gas per day, on behalf of Distribution, for the account of 87 end-user customers. Said authorization was later amended by order issued September 23, 1988, in Docket No. CP88-225-001 to increase daily deliveries to one customer by 100 Mcf and modified by order issued December 16, 1988 in Docket No. CP88-759-000 to increase daily deliveries to four customers by a total of 687 Mcf, so that the total authorized transportation volume for 87 end-user customers is now 50,906 Mcf per day.

National Fuel now requests to further amend the certificates issued in Docket No. CP88-225-000, as amended and modified, so as to extend the term of the interruptible transportation of up to 51,718 Mcf of natural gas per day on behalf of Distribution for the account of 81 of the original end-user customers (Appendix A) ¹ and to add 30 new end-user customers using up to 11,165 Mcf per day (Appendix B) ¹.

In addition, National Fuel requests authorization to modify existing certificates in Docket Nos. CP88-759-000 and CP87-389-000, as amended, issued December 16, 1988 and September 23, 1988, respectively, in order to increase the transportation volumes authorized therein for 5 end-user customers by up to 3,845 Mcf per day (Appendix C(1)) ¹

and to change receipt/delivery points for 104 end-user customers (Appendix C(2)) ¹ previously authorized service therein. Details such as receipt/delivery points and sellers are available in National Fuel's application.

National Fuel states that it would receive the subject transportation volumes at existing receipt points and deliver the volume to Distribution at existing delivery points. National Fuel adds that it would charge Distribution pursuant to its Rate Schedule T-1 which currently provides for a rate of 31.25 cents per Mcf and 2 percent shrinkage.

Any person desiring to be heard or to make any protest with reference to said petition should on or before March 8, 1989, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Lois D. Cashell,
Secretary.

[FR Doc. 89-3917 Filed 2-17-89; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 2513; Vermont]

Green Mountain Power Corp.; Intent To File an Application for a New License

February 15, 1989.

Take notice that on December 29, 1988, Green Mountain Power Corporation, the existing licensee for the Essex Hydroelectric Project No. 2513, filed a notice of intent to file an application for a new license, pursuant to section 15(b)(1) of the Federal Power Act (Act), 16 U.S.C. 808, as amended by section 4 of the Electric Consumers Protection Act of 1986, Pub. L. 99-495. The original license for Project No. 2513 was issued effective May 1, 1965, and expires December 31, 1993.

The project is located at the Winooski River in Chittenden County, Vermont. The principal works of the Essex Project include a 46-foot-high, 494-foot-long concrete gravity dam; a reservoir of 352 acres at elevation 275 feet USGS Datum; an intake structure and four 9-foot-diameter and two 3-foot-diameter steel penstocks; a powerhouse with an

installed capacity of 7,200 kW; 2.3/34.5-kV step-up transformers and a 300-foot-long, 34.5-kV transmission line; and appurtenant facilities.

Pursuant to section 15(b)(2) of the Act, the licensee is required to make available certain information described in Docket No. RM87-7-000, Order No. 496 (Final Rule issued April 28, 1988). A copy of this Docket can be obtained from the Commission's Public Reference Branch, Room 1000, 825 North Capitol Street NE., Washington, DC 20426. The above information as described in the rule is now available from the licensee at 25 Green Mountain Drive, P.O. Box 850, South Burlington, VT 05402, Attn: Mr. Eugene L. Shlatz.

Pursuant to section 15(c)(1) of the Act, each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by December 31, 1991.

Lois D. Cashell,
Secretary.

[FR Doc. 89-3939 Filed 2-17-89; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 2327, New Hampshire]

James River-New Hampshire Electric, Inc.; Intent To File an Application for a New License

February 15, 1989

Take notice that on December 28, 1988, James River-New Hampshire Electric, Inc., the existing licensee for the Cascade Hydroelectric Project No. 2327, filed a notice of intent to file an application for a new license, pursuant to section 15(b)(1) of the Federal Power Act (Act), 16 U.S.C. 808, as amended by section 4 of the Electric Consumers Protection Act of 1986, Pub. L. 99-495. The original license for Project No. 2327 was issued effective July 1, 1958, and expires December 31, 1993.

The project is located on the Androscoggin River in Coos County, New Hampshire. The principal works of the Cascade Project, include a 380-foot-long fixed crest concrete gravity overflow dam, crest elevation 898 feet m.s.l., with wing walls, abutments and flashboards; a reservoir of 28 acres; a gated forebay; a powerhouse with an installed capacity of 7,920 kW; transformers and transmission lines; and appurtenant facilities.

Pursuant to section 15(b)(2) of the Act, the licensee is required to make available certain information described in Docket No. RM87-7-000, Order No. 496 (Final Rule issued April 28, 1988). A

¹ Appendices A, B, C(1), and C(2) can be picked up in the Office of Public Reference, as they will not be published in the Federal Register.

copy of this Docket can be obtained from the Commission's Public Reference Branch, Room 1000, 825 North Capitol Street, NE., Washington, DC 20426. The above information as described in the rule is now available from the licensee at 650 Main Street, Berlin, NH 03570-2489, Attn: Mr. David L. Dunham, telephone (603) 752-4600.

Pursuant to section 15(c)(1) of the Act, each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by December 31, 1991.

Lois D. Cashell,
Secretary.

[FR Doc. 89-3940 Filed 2-17-89; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 2330 New York]

Niagara Mohawk Power Corp.; Intent To File an Application for a New License

February 15, 1989

Take notice that on December 29, 1988, Niagara Mohawk Power Corporation, the existing licensee for the Lower Raquette River Hydroelectric Project No. 2330, filed a notice of intent to file an application for a new license, pursuant to section 15(b)(1) of the Federal Power Act (Act), 16 U.S.C. 808, as amended by section 4 of the Electric Consumers Protection Act of 1986, Pub. L. 99-495. The original license for Project No. 2330 was issued effective November 1, 1949, and expires December 31, 1993.

The project is located on the Raquette River in St. Lawrence County, New York. The principal works of Lower Raquette River Project include the Norwood Unit with concrete dam, 350-acre reservoir, and powerhouse with 2,000-kW installed capacity; the East Norfolk Unit with concrete dam, 135-acre reservoir, and powerhouse with 3,000-kW installed capacity; the Norfolk Unit with concrete dam, 10-acre reservoir, and powerhouse with 4,500-kW installed capacity; and the Raymondville Unit with concrete dam, 50-acre reservoir, and powerhouse with 2,000-kW installed capacity; transmission line connections; and appurtenances.

Pursuant to section 15(b)(2) of the Act, the licensee is required to make available certain information described in Docket No. RM87-7-000, Order No. 496 (Final Rule issued April 28, 1988). A copy of this Docket can be obtained from the Commission's Public Reference Branch, Room 1000, 825 North Capitol Street, NE., Washington, DC 20426. The

above information as described in the rule is now available from the licensee at 300 Erie Boulevard West, Building A-1, Syracuse, NY 13202, Attn: Barbara J. Raymond, telephone (315) 428-6353.

Pursuant to section 15(c)(1) of the Act, each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by December 31, 1991.

Lois D. Cashell,
Secretary.

[FR Doc. 89-3941 Filed 2-17-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP89-97-001]

PSI, Inc., Amendment of Petition For Declaratory Order Disclaiming Jurisdiction

February 14, 1989.

Take notice that on October 28, 1988, PSI, Inc. (PSI), Suite 400, 1044 North 155th Street, Omaha, Nebraska 68154, filed in Docket No. CP89-97-000 a petition for an order declaring that certain proposed natural gas pipeline facilities would be gathering facilities pursuant to section 1(b) of the Natural Gas Act and thereby, exempt from the jurisdiction of the Commission, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

PSI states that it is a marketer of natural gas which has recently purchased interests in certain production properties in the Federal domain offshore Texas, at High Island Blocks A-129, A-154 and A-155. PSI states that it intends to construct and operate 20 miles of 10-inch and smaller diameter pipeline commencing at High Island Block A-129 and terminating at a subsea interconnection with the High Island Offshore System (HIOS) at High Island Block A-270. PSI states that the first segment would originate in the northwest quarter of High Island Block A-129 and would receive gas from two or possibly three wells on the Block and extend for 8 miles in a southerly direction to High Island Block A-154. At such point, the system would receive gas from the Block 154 well through a 4-inch lateral and extend 12 miles in a southeasterly direction to a terminus at the subsea interconnection with HIOS. The design capacity of the system would be 100,000 Mcf per day.

On January 31, 1989, PSI filed in Docket No. CP89-97-001 an amendment to the pending petition for declaratory order making certain changes to the system configuration and specifications

set forth in Docket No. CP89-97-000. PSI states that the diameter of the pipeline has been reduced from a 10-inch to an 8-inch and smaller diameter line. PSI states that the capacity has also been cut from 100,000 Mcf per day to 60,000 Mcf per day. In addition, the system would extend to HIOS Block A-126, in order to include reserves owned by Hall-Houston Oil Company (Hall-Houston). The modified configuration will have a platform construction on Block A-126 to receive the Hall-Houston gas. Two 4-inch diameter lateral lines will be constructed to connect the two PSI wells located on Block A-129 to the platform at Block A-126. Further, the gas from those wells will be separated, dehydrated and compressed at the platform on Block A-126 to the extent necessary to qualify the gas for delivery into HIOS. PSI maintains that there will be no change in the configuration of the other facilities along the course of the system, previously described in Docket No. CP89-97-000. The length of the entire system will remain approximately 20 miles.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before March 7, 1989, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Lois D. Cashell,
Secretary.

[FR Doc. 89-3945 Filed 2-17-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ST80-37-003 et al.]

Valero Interstate Transmission Co; Application for Recovery of Out-of-Pocket Expenses

February 14, 1989

In the matter of Docket Nos. ST80-37-003, ST82-122-002, ST84-53-001, and ST82-468-002

Take notice that on January 17, 1989, Valero Interstate Transmission

Company (Vitco) filed with the Federal Energy Regulatory Commission an application pursuant to the previously effective 18 CFR 284.103(d)(3) ¹ for recovery of out-of-pocket expenses with respect to four self-implementing transportation transactions under section 311 of the Natural Gas Policy Act of 1978 during the period in which § 284.103(d)(3) was effective.²

Vitco states that the transporters involved were Valero Transmission Company, L.P. (Docket No. ST80-37), Esperanza Transmission Company (Docket No. ST82-122), American Pipeline Company (Docket No. ST84-53), and United Gas Pipe Line Company (Docket No. ST82-468). Vitco further states that it has demonstrated out-of-pocket expenses of \$891,900.78 which justifies retention of revenues of \$725,023.78 and recovery of an additional \$166,876, over a three year period, as follows:

Docket No. ST80-37—\$673,388.07, plus amortization of \$166,876

Docket No. ST82-122—\$13,394.05

Docket No. ST84-53—\$18,297.71

Docket No. ST82-468—\$19,944.55

Vitco submits that the claimed out-of-pocket expenses include additional facilities and the cost of lost-and-unaccounted for gas above historical levels.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulation Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 or 214 of the Commission's rules of practice and procedure. All such motions or protests should be filed within 30 days following publication of this notice in the *Federal Register*. Protests will be considered by the Commission in determining appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene.

Lois D. Cashell,

Secretary.

[FR Doc. 89-3942 Filed 2-17-89; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3524]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 et seq.), this notice announces that the Information Collection Requests (ICRs) abstracted below have been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICRs describe the nature of the information collection and their expected cost and burden; where appropriate, they include the actual data collection instrument.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202) 382-2740.

SUPPLEMENTARY INFORMATION:

Office of Water Enforcement

Title: Modification/Variance for Permit to Discharge Wastewater and Associated Regulations (EPA ICR# 0029; OMB #2040-0068). This is a revision of a currently approved collection.

Abstract: NPDES permittees must notify EPA or the State agency of facility changes which may require adjustment of permit conditions. Permittees or other interested persons may also request adjustment by submitting technical data to the permit authority, which approves/denies the request according to established criteria.

Burden Statement: The estimated public reporting and recordkeeping burden for this collection of information is approximately 4 hours per respondent. This estimate includes all aspects of the information collection, including time for reviewing instructions, gathering and maintaining the data needed, carrying out and analyzing tests, and submitting applications.

Respondents: NPDES permittees.

Estimated No. of Respondents: 9,850.

Estimated Total Annual Burden on Respondents: 37,073 hours.

Frequency of Collection: On occasion, when permit must be revised upon permittee request.

Title: NPDES Requirements for Approved State Programs (EPA ICR# 0168; OMB #2040-0057). This is a revision of a currently approved collection.

Abstract: This ICR includes all the reporting requirements relating to State program requests, National Pollution

Discharge Elimination System (NPDES) State program implementation, and EPA overview of NPDES State programs. Accordingly, States must submit a complete description of their proposed NPDES action plans to EPA for review, prior to program approval.

Burden Statement: The estimated annual average reporting and recordkeeping burden for this collection of information is approximately 18,220 hours per respondent. This estimate includes all aspects of the information collection, including time for reviewing instructions, gathering and maintaining data needed, carrying out and analyzing tests, and submitting applications.

Respondents: Approved NPDES States.

Estimated No. of Respondents: 40.

Estimated Total Annual Burden on Respondents: 728,830 hours.

Frequency of Collection: Variable, as needed.

Office of Marine and Estuarine Protection

Title: State Concurrence & 301(h) Waiver from Secondary Treatment requirement for POTWs. (EPA ICR# 0138; OMB #2040-0088). This is a reinstatement of a previously approved collection for which approval has expired.

Abstract: Section 301(h) involves collecting information from municipal wastewater treatment facilities, commonly referred to as publicly owned treatment works (POTWs), and the States in which the POTWs are located. The POTW seeking to obtain a 301(h) waiver provides application, monitoring, and toxic control program information. The State provides state determination and state certification information.

Burden Statement: The estimated average public reporting and recordkeeping burden for this collection of information is 534 hours per respondent, per year. This estimate includes all aspects of the information collection, including time for reviewing instructions, gathering and maintaining the data needed, carrying out and analyzing tests, and submitting applications.

Respondents: Municipal Wastewater Treatment Facilities (POTWs), and States in which the POTWs are located.

Estimated No. of Respondents: 151.

Estimated Total Annual Burden on Respondents: 80,611.

Frequency of Collection: Every 5 years; varies case by case.

Send comments regarding the burden estimate, or any other aspect of these information collections, including suggestions for reducing the burden, to:

¹ Section 284.103 was deleted effective November 1, 1985, by Order No. 436 (50 FR 42,408, Oct. 18, 1985).

² On December 15, 1988, the Director of the Office of Pipeline and Producer Regulation denied a petition filed by Vitco in 1988 for an adjustment to permit it to file an application to retain revenues equal to the out-of-pocket expenses for these four self-implementing transportation transactions. 45 FERC ¶ 62,250 (1988). On January 17, 1989, Vitco filed petition for review of that order.

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM-223), 401 M Street, SW., Washington, DC 20460

and

Tim Hunt, Office of Management and Budget, Office of Information and Regulatory Affairs, 726 Jackson Place, NW., Washington, DC 20530

Dated: February 9, 1989.

Paul Lapsley,

Information and Regulatory Systems Division.

[FR Doc. 89-3894 Filed 2-17-89; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3524-6]

Chesapeake Bay Executive Council; Renewal

The Chesapeake Bay Executive Council has been renewed for an additional two year period. The Agency has determined that the renewal of the Council is in the public interest in connection with the performance of duties imposed on EPA by law. The Council will operate in accordance with the provisions of the Federal Advisory Committee Act and the rules and regulations issued in implementation of the Act.

FOR FURTHER INFORMATION CONTACT: Mary Anne Beatty, EPA Committee Management Officer (PM-213), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 382-5037.

Dated: February 10, 1989.

Charles L. Grizzle,

Assistant Administrator for Administration and Resources Management.

[FR Doc. 89-3893 Filed 2-17-89; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3523-9]

Proposed Administrative Agreement; Dow Chemical Co.

AGENCY: U.S. Environmental Protection Agency.

ACTION: Proposed settlement.

SUMMARY: U.S. EPA is proposing to settle a claim under section 107 of CERCLA for response costs incurred during response activities at the Dow Chemical Company Site in Midland, Michigan. Under the proposed Administrative Agreement ("Agreement"), Dow Chemical Company ("Dow") is required to reimburse U.S. EPA \$1,425,000.00 for costs incurred by U.S. EPA during the Michigan Dioxin Studies. As of August 1988, U.S. EPA's

total costs incurred in the Michigan Dioxin Studies equalled \$1,700,868.17.

The Agreement provides U.S. EPA with a very substantial percentage of its total costs for expedited reimbursement into the Hazardous Substances Superfund.

DATE: Comments on this proposed settlement must be received by March 23, 1989.

ADDRESSES: Copies of the proposed settlement are available at the following addresses for review: (It is recommended that you telephone John Perrecone at (312) 353-2072, before visiting the Region V office): U.S. Environmental Protection Agency, Region V, Office of Superfund, Remedial and Enforcement Response Branch, 230 South Dearborn Street, Chicago, Illinois 60604.

Comments on this proposed settlement should be addressed to: (Please submit an original and three copies, if possible): John Perrecone, Chief, Superfund Community Relations Section, Office of Public Affairs, 5PA-14, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 353-2072.

FOR FURTHER INFORMATION CONTACT: John Perrecone, Office of Public Affairs, at (312) 353-2072.

SUPPLEMENTARY INFORMATION: The Dow Chemical Company ("Dow") facility in Midland, Michigan, in its manufacturing process, generates 2,3,7,8-tetrachlorodibenzo-p-dioxin (2,3,7,8-TCDD, or dioxin). In 1993, U.S. EPA, as part of its National Dioxin Strategy, initiated the Michigan Dioxin Studies to address the release and threat of release of dioxin from the Dow facility. The Michigan Dioxin Studies included several discrete surveys to assess the extent of dioxin contamination in and around Midland, and at the Dow facility.

U.S. EPA is currently using information gathered in the Michigan Dioxin Studies to require Dow to undertake corrective action pursuant to the Resource Conservation and Recovery Act, 42 U.S.C. 6901 *et seq.*

A 30-day period, beginning on the date of publication, is open pursuant to section 122(i) of CERCLA for comments on the proposed settlement. Comments should be sent to John Perrecone, Office of Public Affairs (5PA-14), U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

Timothy M. Conway,

Assistant Regional Counsel, U.S. Environmental Protection Agency.

[FR Doc. 89-3895 Filed 2-17-89; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirements Submitted to Office of Management and Budget for Review

February 13, 1989.

The Federal Communications Commission has submitted the following information collection requirements to the Office of Management and Budget for review and clearance under the Paperwork Reduction Act, as amended (44 U.S.C. 3501 *et seq.*).

Copies of the submissions may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037. Persons wishing to comment on these information collections should contact Eyvette Flynn, Office of Management and Budget, Room 3235 NEOB, Washington, DC 20503, (202) 395-3785. Copies of these comments should also be sent to the Commission. For further information contact Jerry Cowden, Federal Communications Commission, (202) 632-7513.

OMB Number: 3060-0210

Title: Section 73.1930, Political editorials

Action: Extension

Respondents: Businesses (including small businesses)

Frequency of Response: On occasion

Estimated Annual Burden: 2,023 responses; 6,069 hours; 3 hours each

Needs and Uses: If a commercial broadcast licensee endorses or opposes a candidate in an editorial, the licensee must notify the other qualified candidate(s) for the same office or the candidate opposed. This information is used to provide a qualified candidate a reasonable opportunity to respond to the editorial.

OMB Number: 3060-0179

Title: Section 73.1590, Equipment performance measurements

Action: Extension

Respondents: Businesses (including small businesses) and non-profit institutions

Frequency of Response: Recordkeeping requirement

Estimated Annual Burden: 11,314 recordkeepers; 10,522 hours; 56 minutes each

Needs and Uses: Broadcast licensees must make audio and visual equipment performance measurements and retain complete data at the station's transmitter. These measurements minimize the potential for interference to other stations.

OMB Number: 3060-0253

Title: Part 68, Connection of telephone equipment to the telephone network (sections 68.106, 68.108, and 68.110)

Action: Extension

Respondents: Individuals or households, state or local governments, farms, businesses (including small businesses), federal agencies or employees, and non-profit institutions

Frequency of Response: On occasion

Estimated Annual Burden: 57,540 responses; 3,280 hours; 3.4 minutes each

Needs and Uses: This collection prevents harm to the telephone network when customer-provided equipment is connected to telephone company lines and ensures that customers will not overload the telephone lines with excessive equipment which could degrade service to the customers and others.

Donna R. Searcy,

Secretary.

[FR Doc. 89-3975 Filed 2-17-89; 8:45 am]

BILLING CODE 6712-01-M

[CC Docket No. 83-1376; FCC 88J-4]

Integration of Rates and Services; Alaska Market Structure

AGENCY: Federal Communications Commission.

ACTION: Supplemental order inviting comment.

SUMMARY: In a *Supplemental Order Inviting Comment (Order)*, the Federal-State Joint Board (Joint Board) in *Integration of Rates and Services*, CC Docket No. 83-1376, invited further comment on several aspects of the issues relating to the appropriate market structure for the Alaska interstate telecommunication market and related separations issues that the FCC had referred to it. The Joint Board tentatively identified five objectives that it believed should guide resolution of the issues in the proceeding. The Joint Board also described two alternative market structure options and invited comment concerning them. The Joint Board also requested the submission of additional data to aid in the analysis of market structures for Alaska.

DATES: Data are to be filed on or before February 27, 1989. Comments may be filed on or before April 13, 1989, and reply comments may be filed on or before May 15, 1989.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Douglas L. Slotten, Policy and Program

Planning Division, Common Carrier Bureau, (202) 632-9342.

SUPPLEMENTARY INFORMATION: This is a summary of the Federal-State Joint Board's *Supplemental Order Inviting Comment (Order)*, inviting comment and requesting data on a variety of issues before the Joint Board in CC Docket No. 83-1376, which was adopted December 19, 1988, and released January 3, 1989.

The full text of this decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Summary of Order

In the Order, the Joint Board invited interested persons to comment in more detail on several issues relating to the appropriate market structure for the provision of Alaska interstate telecommunications that the FCC had referred to it in a *Notice of Proposed Rulemaking, Integration of Rates and Services*, 50 FR 41714 (Oct. 15, 1985). The FCC had asked the Joint Board to prepare recommendations concerning: (1) What market structure changes, if any, are necessary to harmonize the Commission's rate integration and competition policies for the Alaska interstate telecommunication market; and (2) what, if any, separations or other rule changes would be necessary to implement the recommended market structure.

Initially, the Joint Board tentatively identified five objectives it would apply in developing its recommendations. The Joint Board first proposed developing an Alaska market structure recommendation that provides for the continued availability of interstate MTS and WATS service at integrated rates for all Alaska residents. Second, it tentatively concluded that the recommended Alaska interstate market structure should allow for market based competitive entry. Thus, it indicated that rate support or other special treatment should not be made available to competitive entrants in the Alaska interstate market. Third, the Joint Board stated that it is firmly committed to ensuring universal service for Alaska as part of its deliberations in this docket and determined that a carrier of last resort for Alaska message service should be designated with responsibility for building necessary facilities and providing service under the market structure rules adopted in this

proceeding. Fourth, the Joint Board tentatively concluded that resolution of the issues in this proceeding, including adoption of any changes in the Alaska interstate market structure, should be accomplished without generating any material increase in the intrastate revenue requirement. However, the Joint Board observed that intrastate revenue requirements could increase due to factors not directly at issue in CC Docket 83-1376. Finally, the Joint Board tentatively concluded that the public interest would be served by the adoption of the most efficient Alaska telecommunications market structure possible, consistent with its other public interest concerns. It also emphasized that a market structure that encourages the building of uneconomic facilities by competitive entrants undermines economic efficiency.

The Joint Board stated that the delineated order of the objectives should not be construed to indicate prioritization of the goals by the Joint Board. In its view, a proper resolution of the issues must represent a balanced effort to achieve each of the goals. The Joint Board emphasized that measures to increase efficiency and promote market based competitive entry should not be implemented at the expense of universal service, rate integration or jurisdictional revenue requirement neutrality. The Joint Board invited interested parties to comment on the objectives and their use as the standards for evaluating alternative market structure proposals for the provision of Alaska interstate telecommunication service and for making any changes to the FCC's rules that may be required.

The Joint Board stated that it had reviewed the market structure proposals made by the American Telephone and Telegraph Company (AT&T), Alascom, Inc. (Alascom), and General Communication Incorporated (GCI), as well as the other comments filed in the proceeding, and had concluded that each of the proposals had one or more features that made it incompatible with the proposed objectives of the Joint Board. The Joint Board therefore tentatively concluded that none of the market structures proposed to date should be adopted as proposed. The Joint Board determined that the cost-plus nature of the existing joint service arrangement between AT&T and Alascom provides undesirable incentives for Alascom because it receives reimbursement from AT&T for all of its costs assigned to the interstate jurisdiction as well as a return on the portion of its investment that is assigned

to the interstate jurisdiction. The Joint Board concluded that the deficiencies in the joint service arrangement suggest that alternative arrangements should be given serious consideration in an effort to achieve an improved market structure that will inure to the benefit of all toll ratepayers. The Joint Board observed that parties believing that the joint service arrangement remains the preferred market structure are free to present their arguments to rebut the deficiencies noted.

The Joint Board also indicated that neither AT&T nor GCI had adequately addressed the implementation of their proposed market structures or the effect their plans would have on the achievement of its objectives. The Joint Board also tentatively concluded that the measures proposed by AT&T and GCI to address the high cost of serving rural locations in Alaska should not be adopted, although it did not foreclose the establishment of a cost adjustment mechanism for Alaska.

The Joint Board indicated that AT&T's proposed separations changes that would shift approximately \$27 million to the intrastate jurisdiction is inconsistent with the jurisdictional revenue requirement neutrality objective, and that, if we adopt this objective, AT&T's proposal would have to be rejected. Finally, the Joint Board concluded that it could not recommend GCI's proposal to extend the benefits of the Carrier Lease Agreement to Alascom, finding that such action would be inconsistent with the public interest and the objectives tentatively established in this proceeding.

The Joint Board developed two alternative plans for the structure of the Alaska interstate market for the purpose of inviting comments from interested parties. Plan A would eliminate the AT&T and Alascom joint services and assign responsibility for the provision of interstate message toll services throughout Alaska to both AT&T and Alascom. Alascom would be responsible for services provided in Alaska, while AT&T would be responsible for services provided in the contiguous states. AT&T and Alascom would be required to provide MTS services to and from Alaska by interconnecting their facilities at a point in the contiguous states. AT&T would be precluded from constructing or leasing Alaskan facilities which are or could be provided by the Alascom network.

Under Plan A, Alascom would be required to supply interstate toll facilities to any carrier requesting service and would develop a tariff

describing the terms, conditions, and rates for these services. Alascom's offerings would be available on a non-discriminatory basis to all IXC's. In addition, the OCCs would be given the choice of taking service from Alascom at a point or points in Alaska or using Alascom's facilities for service between the contiguous states and Alaska as well. Alascom's tariff rates on competitive routes would generally be expected to reflect costs, and thus cost allocation procedures would have to be developed to accomplish this. The Alascom tariff would not include any access charges of the local exchange carriers. Alascom would be required to file tariff proposals and supportive cost materials with the Commission which would be reviewed pursuant to its tariff procedures.

Plan A would assign AT&T the responsibility for ensuring interstate service at integrated rate levels in Alaska. The cost of Alaska service would be recovered by AT&T through nationwide averaged rates. All competitive carriers entering the Alaska market would compete against integrated toll rates since competition under this plan will function as it does in the contiguous states. Presubscription balloting would re-occur in Alaska to determine the customers' choice of IXC under the new market structure.

Plan A would require that Alascom submit detailed planning documents (including cost-benefit analyses) regarding any extensive system upgrade or redesign and obtain Commission approval prior to commencement of construction as a means of reducing costs. The current restrictions against construction of duplicative toll facilities in bush areas would be maintained to prevent uneconomic investment. Furthermore, to ensure reasonable intrastate toll rates, no changes in jurisdictional separations shifting costs to the intrastate jurisdiction would be adopted.

Plan B would eliminate the joint service arrangement between AT&T and Alascom and permit entry into the Alaska interstate market by competitive carriers pursuant to the requirements for nondominant carriers in the contiguous states. These carriers would provide service in competition with AT&T's nationwide average rate structure. Under this approach, Alascom's current interstate operations would be divided into two segments—the "distribution segment" and the "interstate link segment." The distribution segment would resemble the provision of transport access service in the

contiguous states, in certain respects, and would include Alascom's current interstate investment in, and expenses associated with, the distribution facilities from its switches in Anchorage, Fairbanks, and Juneau to the facilities of the Alaska exchange carriers, as well as any portion of Alascom's switches used to provide equal access in Alaska. The interstate link segment would include all of Alascom's jurisdictionally interstate investment and expenses that are not encompassed in the distribution segment. This would include Alascom's satellite and microwave facilities used to carry traffic from its switches in Alaska to the contiguous states, as well as any portion of Alascom's switches used by IXC's as a POP in Alaska. Cost allocation rules would have to be developed to allocate Alascom's investment and expenses between these two segments.

Under Plan B, Alascom would file interstate tariffs to recover the costs associated with the distribution segment. These tariffs would offer both switched and private line elements to provide distribution of IXC traffic from each of Alascom's three switches to the Alaska exchange carriers' and offices. The Alascom distribution tariff charges would not include the cost of access services provided over the Alaska exchange carriers' facilities. Alascom, as the dominant carrier, would be responsible for carrying traffic from all exchanges in Alaska to one or more central points of interconnection with IXC's. However, IXC's would also be allowed to establish direct connections with Alaska exchange carriers. Alascom would provide equal access for exchanges that would not otherwise have this feature.

Plan B would require AT&T to continue to use Alascom facilities associated with the interstate link segment for a finite transition period in recognition of Alascom's past reliance on Commission policy requiring joint planning and service provision. Thus, AT&T would be required to take a specified number of circuits (roughly equivalent to the number it currently uses) for the remaining life of the relevant Alascom facilities. AT&T could obtain circuits in excess of that number from any carrier it desired, or build its own facilities. After termination of the transitional requirements, AT&T would be free to provide interstate service between Alaska and the contiguous states via any facilities it chose to use. AT&T would become the provider of interstate message service between

Alaska and the contiguous states at integrated rates. AT&T would inherit the present interstate service obligations of AT&T and Alascom and would thus continue to serve all Alaska exchanges. Alascom could provide facilities for the interstate link segment, on a non-discriminatory basis, to AT&T and any other IXCs pursuant to a tariff filed with the Commission or pursuant to intercarrier contracts. Alascom would be permitted to enter the interstate message market itself. Finally, under Plan B, Alascom and AT&T would be required to file engineering and cost allocation proposals reflecting their plans for implementing the new market structure. These filings would be subject to public comment before implementation of the revised market structure.

The Joint Board requested comments concerning the benefits and detriments of adopting either plan relative to the existing joint service arrangement in light of its basic objectives in this proceeding. The Joint Board invited parties to suggest modifications to either Plan A or B that will foster achievement of its objectives in this proceeding, or facilitate the implementation of either plan. The Joint Board also sought comment on improvements which could be made to the joint service arrangement and current market structure in the event that no better alternative can be developed at this time. The Joint Board then invited comment on a number of questions concerning the evaluation and implementation of alternative market structure proposals, including the need for separations changes or cost allocation rules in conjunction with the introduction of any revised market structure, the implementation of the revenue requirement neutrality objective, and the market rules for competitive entrants.

The Joint Board invited interested persons to comment on whether a cost adjustment mechanism is necessary under either Plan A or Plan B to address any aspects of the high cost of serving Alaska. It asked for comments on the means of funding a cost adjustment mechanism, if one were to be adopted.

The Joint Board specified data that it believed is necessary to an analysis of the record and application of the objectives outlined above. It directed parties to update their earlier filings in certain respects and requested AT&T, Alascom, and GCI to file data specified in the Order.

The Joint Board tentatively concluded that the separation of the bush exchange

carriers' investment in earth stations and the expenses associated with that ownership interest was within the scope of its jurisdictional revenue requirement neutrality objective since a substantial portion of the bush earth station investment and expense relates to message services. Interested persons were asked to comment on this tentative conclusion, and, in doing so, to discuss with specificity the separations changes, if any, necessary to implement the tentative conclusion.

Finally, the Joint Board indicated that it believed that the public policy implications of rate integration on the Alaska-Hawaii route are no different from those underlying rate integration between Alaska and the other states, and it therefore tentatively concluded that rate integration should be implemented on the Alaska-Hawaii route. It also tentatively concluded that service on the Alaska-Hawaii route should be provided pursuant to the Alaska-contiguous states market policy guidelines adopted by the Commission in this proceeding. The Joint Board invited interested parties to comment on these tentative conclusions.

Ordering Clauses

Accordingly, it is ordered, pursuant to sections 1, 4 (i) and (j), 201-205, 221, and 410(c) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154 (i) and (j), 201-205, 221, and 410(c), that interested persons are to file the data requested herein with the Secretary, Federal Communications Commission, on or before February 27, 1989. Comments are to be filed on or before April 13, 1989, and reply comments are to be filed on or before May 15, 1989. Each participating party is to file an original and six (6) copies of their filings with the Secretary, Federal Communications Commission, and mail one (1) copy to each person listed in Appendix B. A copy of each filing is also to be provided to the Commission's contractor for public records duplication, International Transcription Services, Inc., Suite 140, 2100 M Street NW., Washington, DC 20037. Copies of all filings will be available for public inspection in the Commission's public reference room, 1919 M Street NW., Washington, DC.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 89-3976 Filed 2-17-89; 8:45 am]

BILLING CODE 6712-01-M

[Report No. DS823; DA 89-79]

GE American Communications, Inc.; Petition for Reconsideration of Commission's Order Denying Modification Request for Its K-3 Satellite

February 3, 1989.

On December 30, 1988, GE American Communications, Inc. (GE Americom) filed a petition for reconsideration of this Commission's Order in the matter, GE American Communications, Inc., 3 FCC Red 6871 (GE Americom Order). GE American Communications, Inc. (GE Americom) and HBO formed Crimson Satellite Associates (CSA) to provide various video programming services to its subscribers including direct-to home users. GE Americom proposed to operate its 12/14 GHz K-3 satellite from the 85° W.L. geostationary orbital location with 60 watt traveling wave tube amplifiers, half CONUS (contiguous U.S.), concentrated transmission beams and transponders capable of operating with 27 MHz or 54 MHz of usable bandwidths. It also proposed to co-locate a modified K-4 satellite at 85° W.L. at a future date. In response to considerable opposition and comment from the satellite industry regarding this proposal, the Commission released the GE Americom Order which resolved the dispute by creating a bifurcated high power density arc—an eastern segment at 75° W.L.-79° W.L. and western segment between 132° W.L.-136° W.L. Because GE Americom asserted that it would not operate its proposed high power density satellite outside of the 85° W.L.-106° W.L. orbital arc, the Commission denied its modification request to operate its high power density satellite at 85° W.L. GE Americom now petitions the Commission to reconsider its decision in the GE Americom Order asserting that among other things, the Commission can still accommodate GE Americom's K-3/K-4 satellite combination within the traditional orbital arc.

Parties wishing to file oppositions or comments to HBO's petition should do so at the Commission no later than February 21, 1989. Reply comments should be filed no later than March 7, 1989.

Parties are requested to serve copies of the comments upon International Transcription Services, Inc. at their offices in Room 246, 1919 M Street NW., Washington, DC 20554, and upon Cecily Holiday, Chief Satellite Radio Branch,

Room 6324, 2025 M Street NW.,
Washington, DC 20554.

Copies of the petition and related documents may be obtained from International Transcription Services, Inc., 2100 M Street NW., Washington, DC 20036, (200) 857-3800. The documents are also available for public inspection and copying in Room 6218, 2025 M Street NW., Washington, DC 20554.

For further information, contact Wilbert E. Nixon at (202) 634-1624.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 89-3977 Filed 2-17-89; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-819-DR]

Amendment to Notice of a Major Disaster Declaration; Illinois

AGENCY: Federal Emergency
Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Illinois (FEMA-819-DR), dated January 13, 1989, and related determinations.

DATED: February 13, 1989.

FOR FURTHER INFORMATION CONTACT:
Neva K. Elliott, Disaster Assistance
Programs, Federal Emergency
Management Agency, Washington, DC
20472 (202) 646-3614.

Notice

The notice of a major disaster for the State of Illinois, dated January 13, 1989, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 13, 1989: Hamilton County for Individual Assistance and Public Assistance.

Grant C. Peterson,

Associate Director, State and Local Programs
and Support, Federal Emergency
Management Agency.

(Catalog of Federal Domestic Assistance No.
83.516, Disaster Assistance.)

[FR Doc. 89-3898 Filed 2-17-89; 8:45 am]

BILLING CODE 6718-02-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the

following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC, Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in section 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 202-006190-052.

Title: United States Atlantic & Gulf/
Venezuela Steamship Conference d/b/a
United States Atlantic & Gulf/
Venezuela Freight Association.

Parties:

American Transport Lines, Inc.
Compania Anonima Venezolana De
Navegacion

Synopsis: The proposed modification would add Venezuelan Container Service, King Ocean Service De Venezuela, S.A., Maragua Line, and Consorcio Naviero De Occidente C.A. as parties to the Agreement. It would also change the name of the Agreement from the "United States Atlantic & Gulf/Venezuela Steamship Conference d/b/a United States Atlantic & Gulf/Venezuela Freight Association" to "United States Atlantic/Venezuela Steamship Conference, d/b/a United States Atlantic/Venezuela Freight Association." It would further modify the agreement to provide for three rather than four ratemaking sections, and extend the geographic scope of the Agreement from Atlantic Coast ports or inland points in the United States via Atlantic and Gulf Coast ports. The parties have requested a shortened review period.

Agreement No.: 202-010656-033.

Title: North Europe-U.S. Gulf Freight
Association.

Parties:

Compagnie Generale Maritime (CGM)
Lykes Bros. Steamship Company, Inc.
Gulf Container Line (GCL), B.V.
Sea-Land Service, Inc.
Hapag-Lloyd AG
P&O Containers (TFL) Limited
Nedlloyd Lijnen, B.V.

Synopsis: The proposed modification would conform the Agreement to the Commission's requirements concerning Docket No. 88-7, Service Contract; "Most Favored Shipper." The parties

have requested a shortened review period.

Agreement No.: 203-011160-005.

Title: Agreement 11160.

Parties:

Atlantic Container Line BV
Compagnie Generale Maritime (CGM)
n.v. CMB s.a.
Orient Overseas Container Line (UK)
Ltd.
Gulf Container Line (GCL), BV
Hapag Lloyd AG
Johnson ScanStar
Lykes Bros. Steamship Co., Inc.
Nedlloyd Lijnen, B.V.
P&O Containers (TFL) Limited
Pacific Europe Express
Polish Ocean Lines
Sea-Land Service, Inc.
South Atlantic Cargo Shipping, N.V.
Deppe Linie GmbH & Co.

Synopsis: The proposed modification would add Mediterranean Shipping Co., as a party to the Agreement. The parties have requested a shortened review period.

Agreement No.: 202-011231.

Title: United States Gulf/Venezuela
Steamship Conference d/b/a United
States Gulf/Venezuela Freight
Association.

Parties:

American Transport Lines, Inc.
Companhia Anonima Venezolana De
Navegacion
Maritima Aragua, S.A.

Synopsis: The proposed Agreement replaces in part the United States Atlantic and Gulf/Venezuela Freight Association. The Agreement would permit the parties to discuss and establish rates, charges, rules, practices, and conditions of service in the trade between United States Gulf Coast ports, to ports and inland or coastal points in Venezuela. The parties have requested a shortened review period.

By Order of the Federal Maritime
Commission.

Joseph C. Polking,

Secretary.

Dated: February 14, 1989.

[FR Doc. 89-3914 Filed 2-17-89; 8:45 am]

BILLING CODE 6730-01-M

Security for the Protection of the Public To Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages; Issuance of Certificate (Casualty); Pride Cruise Lines. Ltd/Carter-Green-Redd Inc.

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to

Passenger or Other Persons on Voyages pursuant to the provisions of section 2, Pub. L. 89-777 (80 Stat. 1356, 1357) and Federal Maritime Commission General Order 20, as amended (46 CFR 540):

Pride Cruise Lines, Limited/Carter-Green-Redd Inc., State Port, East Pier Dock 52, Gulfport, Mississippi 39502
Vessel: PRIDE OF MISSISSIPPI.

Date: February 15, 1989.

Joseph C. Polking,
Secretary.

[FR Doc. 89-3954 Filed 2-17-89; 8:45 am]

BILLING CODE 6730-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Current List of Laboratories Which Meet Minimum Standards to Engage in Urine Drug Testing for Federal Agencies

AGENCY: National Institute on Drug Abuse.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services notifies Federal agencies of the laboratories currently certified to meet standards of Subpart C of Mandatory Guidelines for Federal Workplace Drug Testing Programs (53 FR 11986). A similar notice listing all currently certified laboratories will be published monthly, updated to include laboratories which subsequently apply and complete the certification process. If any listed laboratory fails to maintain its certification, it will be omitted from updated lists until such time as it is restored to full certification under the Guidelines.

FOR FURTHER INFORMATION CONTACT: Office of Workplace Initiatives, National Institute on Drug Abuse, Room 10A-53, 5600 Fishers Lane, Rockville, Maryland 20857.

SUPPLEMENTARY INFORMATION:

Mandatory Guidelines for Federal Workplace Drug Testing were developed in accordance with Executive Order 12564 and section 503 of Pub. L. 100-71. Subpart C of the Guidelines, "Certification of Laboratories Engaged in Urine Drug Testing for Federal Agencies," sets strict standards which laboratories must meet in order to conduct urine drug testing for Federal agencies. To become certified an applicant laboratory must undergo three rounds of performance testing plus on-site inspection. To maintain that certification a laboratory must

participate in an every-other-month performance testing program plus periodic, on-site inspections. In accordance with Subpart C of the Guidelines, the following laboratories meet the standards set forth in the Guidelines:

(Submitted for publication in the *Federal Register* on February 17, 1989.)

American Medical Laboratories, 11091 Main Street, P.O. Box 188, Fairfax, VA 22030, 703-691-9100

Center for Human Toxicology, 417 Wakara Way, Rm. 290, University Research Park, Salt Lake City, UT 84108, 801-581-5117

ChemWest Analytical Laboratories, Inc., 600 West North Market Blvd., Sacramento, CA 95834, 916-923-0840

CompuChem Laboratories, Inc., 3308 Chapel Hill/Nelson Hwy., P.O. Box 12652, Research Triangle Park, NC 27709, 919-549-8263, 919-248-6494

Med Arts/South Community Hospital, 1001 Southwest 44th Street, Oklahoma City, OK 73109, 405-636-7041

MetPath, Inc., 1355 Mittel Boulevard, Wood Dale, IL 60191, 312-595-3888

MedTox Laboratories, Inc., 402 West County Road D, St. Paul, MN 55112, 612-636-7466
National Center for Forensic Science, 1901 Sulphur Spring Road, Baltimore, MD 21227, 301-247-9100

(Name changed: formerly Maryland Medical Laboratories, Inc.)

Nichols Institute, 7323 Engineer Road, San Diego, CA 92111, 619-278-5900

Doctors and Physicians Laboratory, 801 E. Dixie Ave., Leesburg, FL 32748, 904-787-9006

International Clinical Laboratories, 8000 Sovereign Row, Dallas, TX 75247, 214-638-1301

SmithKline Bio-Science Laboratories, 2201 W. Campbell Park Drive, Chicago, IL 60612, 312-885-2010

(Name changed: formerly International Toxicology Laboratories, Inc.)

South Bend Medical Foundation, Inc., 530 North Lafayette Blvd., South Bend, IN 46601, 219-234-4176

Richard A. Millstein,
Deputy Director, National Institute on Drug Abuse.

[FR Doc. 89-4017 Filed 2-17-89; 8:45 am]

BILLING CODE 4160-20-M

Food and Drug Administration

[Docket No. 88D-0355]

Illegal Sales of Veterinary Prescription Drug—Direct Reference Authority for Regulatory Letter Issuance; Compliance Policy Guide; Availability

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of Compliance Policy Guide (CPG) 7125.29 "Illegal Sales of

Veterinary Prescription Drugs—Direct Reference Authority for Regulatory Letter Issuance." The CPG provides to FDA district offices specific guidance for the direct issuance of regulatory letters for the illegal sale of veterinary prescription drugs. This guidance does not limit the agency's enforcement discretion on whether to initiate regulatory action after an evaluation of all relevant facts.

ADDRESSES: Submit written requests for single copies of CPG 7125.29 to the Industry Information Staff (HFV-12), Center for Veterinary Medicine, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. (Send two self-addressed adhesive labels to assist the staff in processing your requests.) CPG 7125.29 is available for public examination in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: James E. Tessmer, Center for Veterinary Medicine (HFV-326), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2830.

SUPPLEMENTARY INFORMATION: FDA has prepared CPG 7125.29 "Illegal Sales of Veterinary Prescription Drugs—Direct Reference Authority for Regulatory Letter Issuance" to provide FDA district offices with the authority to directly issue regulatory letters for the illegal sale of veterinary prescription drugs when the specific criteria stated in the CPG are met and documented.

Unless a veterinary drug is exempted by regulation, it is in violation of section 502(f)(1) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 352(f)(1)) if it does not bear adequate directions for use. Adequate directions for lay use cannot be prepared for certain veterinary drugs intended for animal use, because some drugs are toxic at higher dosages or have other potential for harmful effects or are unsafe for lay persons to administer to animals because of the methods of their use. Such drugs, which are known as veterinary prescription drugs, must be administered to animals only under the supervision of a licensed veterinarian.

New section 503(c)(2)(A), added to the act by the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100-670, sec. 105, 102 Stat. 3971, 1988) specifies conditions for exemption of veterinary prescription drugs from the requirement of adequate directions for use. In addition, FDA's regulation (21 CFR 201.105) describes conditions under

which veterinary prescription drug labeling shall be exempt from bearing adequate directions for use. These conditions include, among other things, the requirement that the drug be either (1) in the possession of a person who is regularly and lawfully engaged in the manufacture, transportation, storage, or wholesale or retail distribution of veterinary drugs and is to be sold only to or on the prescription or order of a licensed veterinarian for use in the course of his/her professional practice, or (2) in the possession of a licensed veterinarian for use in the course of his/her professional practice.

CPG 7125.29 provides FDA's district offices direct reference authority to issue regulatory letters for the illegal sale of veterinary prescription drugs when all of the criteria described in the CPG are met.

Serious consequences to the public health and to animal health may result from illegal sales resulting in the misuse by lay persons of veterinary prescription drugs. Misuses of veterinary prescription drugs in food-producing animals may result in unsafe residues in edible products from the treated animals and/or injury to the treated animals. These drugs must be used in accordance with the directions and supervision of licensed veterinarians within a course of their professional practice, which involves diagnosis of the disease condition and knowledge of the animals to be treated.

This notice is issued under 21 CFR 10.85

Dated: February 10, 1989.

Alan L. Hoeting,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 89-3887 Filed 2-17-89; 8:45 am]

BILLING CODE 4160-01-M

Public Health Service

Health Education Assistance Loan Program; Sale of Defaulted Loans

The Health Resources and Services Administration announces that the Department of Health and Human Services (Department) may sell defaulted Health Education Assistance Loans (HEAL) to lenders or other entities that the Secretary determines are capable of dealing in such loans.

Section 727 of the Public Health Service Act (42 U.S.C. 294) authorizes the Secretary of Health and Human Services to establish a Federal program of student loan insurance for eligible students in programs of study leading to degrees in medicine, osteopathic medicine, dentistry, veterinary

medicine, optometry, podiatric medicine, pharmacy, public health, chiropractic, health administration, clinical psychology, and allied health.

Section 60.1 of the program's implementing regulations (42 CFR Part 60) provides that the Department may insure each lender for the losses it may incur in the event that a borrower defaults on his or her loan. If the lender has complied with all the HEAL statutes and regulations, and with the lender's insurance contract, the Department pays the amount of the loss to the lender and the borrower's loan is then assigned to the Secretary. The United States Government then becomes the borrower's direct creditor and actively pursues the borrower for repayment of the debt.

Section 733(b) of the Public Health Service Act, as amended by the Health Omnibus Programs Extension of 1988 (Pub. L. 100-607), enacted November 4, 1988, authorizes the Secretary of Health and Human Services to sell, without a Federal guarantee, defaulted HEAL loans to lenders (or other entities that the Secretary determines are capable of dealing in such loans). The defaulted loans may be sold at a discounted rate.

The Department is currently developing summary data on borrowers who have defaulted on their loans and are making payments to the Federal Government. This data should be helpful to lenders and other entities in deciding whether to purchase these loans. There is now approximately \$10,000,000 in defaulted loans on which borrowers are now making payments to the Federal Government.

If you would like more information on these defaulted loans, please contact Michael Heningburg, Director, Division of Student Assistance, Bureau of Health Professions, Room 8-23, Health Resources and Services Administration, 5600 Fishers Lane, Rockville, Maryland, 20857, not later than 30 days after the publication date of this General Notice.

(Catalog of Federal Domestic Assistance No. 13.108, Health Education Assistance Loans)

Dated: February 14, 1989.

John H. Kelso,

Acting Administrator.

[FR Doc. 89-3943 Filed 2-17-89; 8:45 am]

BILLING CODE 4160-15-M

Secretary's Council on Health Promotion and Disease Prevention; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following meeting of the

Secretary's Council on Health Promotion and Disease Prevention, scheduled to meet Tuesday, March 14, 1989.

Name: Secretary's Council on Health Promotion and Disease Prevention

Date and Time: March 14, 1989, 8:30 a.m. to 3:00 p.m.

Place: Room 800, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC.

Open March 14, 1989, 8:30 a.m. to Noon. Closed from Noon to 2:00 p.m.

Purpose: The Secretary's Council on Health Promotion and Disease Prevention is charged to provide advice to the Secretary and to the Assistant Secretary for Health on national goals and strategies to achieve those goals for improving the health of the Nation through disease prevention and health promotion.

Agenda: This will be the third meeting of the Secretary's Council. The Council will hear briefings on prevention activities from the National Institutes of Health, the Food and Drug Administration, and the Alcohol, Drug Abuse and Mental Health Administration. They will hear reports including the progress of the Year 2000 Health Objectives process and the U.S. Preventive Services Task Force Recommendations. Tentative plans have been made to brief the Secretary on Council activities.

During its closed session at the lunch hour, the Council is scheduled to meet privately with the Secretary.

Anyone wishing to obtain a Roster of Members, Minutes of Meetings, or other relevant information should contact Linda M. Harris, Ph.D., Staff Director for the Council, Office of Disease Prevention and Health Promotion, Public Health Service, Department of Health and Human Services, Washington, DC 20201. Telephone (202) 472-5370.

Agenda items are subject to change as priorities dictate.

J.M. McGinnis,

Deputy Assistant Secretary for Health (Disease Prevention and Health Promotion).

[FR Doc. 89-3882 Filed 2-17-89; 8:45 am]

BILLING CODE 4160-15-M

Rural Health Medical Education Demonstration Project; Delegation of Authority

Notice is hereby given that I have delegated to the Assistant Secretary of Health, with authority to redelegate, all authorities vested in the Secretary of Health and Human Services under section 4038, except for section 4038(d) which will be administered by the

Administrator, Health Care Financing Administration, of Pub. L. 100-203.

Date: January 27, 1989.

Don M. Newman,
Acting Secretary.

[FR Doc. 89-3880 Filed 2-17-89; 8:45 am]

BILLING CODE 4160-15-M

Section 204 of Public Law 100-177, Entitled "Special Repayment Provisions"; Delegation of Authority

Notice is hereby given that I have delegated to the Assistant Secretary for Health, with authority to redelegate, all the authorities vested in the Secretary of Health and Human Services under section 204 of Pub. L. 100-177, entitled "Special Repayment Provisions," excluding the authority to issue regulations. This delegation became effective upon the date of signature. In addition, notification is hereby given that, effective on the date of this delegation, I have affirmed and ratified any actions taken by the Assistant Secretary for Health and his subordinates which involved the exercise of the delegated authorities prior to the effective date of signature.

Date: February 10, 1989.

Don M. Newman,
Acting Secretary.

[FR Doc. 89-3881 Filed 2-17-89; 8:45 am]

BILLING CODE 4160-15-M

Social Security Administration

Disability Advisory Committee; Public Meetings

AGENCY: Social Security Administration, HHS.

ACTION: Notice of public meetings.

SUMMARY: In accordance with the Federal Advisory Committee Act (Pub. L. 92-463), this notice announces the schedule and proposed agenda of two public meetings to be held by the Disability Advisory Committee (the Committee). This notice also describes the purposes of the Committee.

DATES: March 8, 1989, 9:00 a.m. to 5:00 p.m.; March 9, 1989, 9:00 a.m. to 3:00 p.m.

ADDRESS: Wilshire Federal Building, Room 11104, 11000 Wilshire Blvd., Los Angeles, CA 90024.

DATES: March 29, 1989, 10:00 a.m. to 5:00 p.m.; March 30, 1989, 9:00 a.m. to 3:00 p.m.

ADDRESS: Hubert H. Humphrey Building, Room 800, 200 Independence Ave., SW., Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: Jean H. Hinckley, Executive Director,

Disability Advisory Committee, P.O. Box 17064, Baltimore, Maryland 21235, (301) 965-4646.

SUPPLEMENTARY INFORMATION: The Committee is established under and governed by the provisions of section 1114 of the Social Security Act, as amended, and the provisions of the Federal Advisory Committee Act, as amended (Pub. L. 92-463).

The purposes of the Committee are to study the Social Security administrative review process (known as the "appeals process") to ensure that the process protects the rights of the claimants, produces accurate and swift decisions, and is viewed as fair and equitable; receive and consider public views on reform of the process; and make a report and recommendations to the Commissioner of Social Security.

As part of its study of the appeals process, the Committee will receive and consider public views on reform. This notice announces two public meetings for the purpose of receiving public views on reform. The Committee is chaired by Dr. John E. Affeldt.

The Committee will conduct these public meetings as an informal forum open to the public to the extent that space is available. Transcripts of the meetings will be made available to the public on an at-cost-of duplication basis. The transcripts can be ordered from the Executive Director of the Committee. The transcripts and all written submissions will become part of the record of these proceedings.

After an opening statement by the chairperson, the public comment portion of the meeting will begin. The Committee will accept requests to speak from public officials, representatives of civic and public interest organizations, and concerned citizens. As many speakers as time permits will be scheduled at each meeting. Speakers are asked to address their perceptions of the problems with the present process as succinctly as possible so that they may spend the majority of their time discussing their recommendations for achieving the purposes of the study identified above. In order to ensure that everyone wishing to speak will be given the opportunity, the chairperson may limit the time allotted to each speaker.

Any public official, representative of an organization, or individual desiring to participate at either of the public meetings should write or telephone the Executive Director of the Committee and provide the following: (1) Name; (2) business address; (3) telephone number during normal working hours; (4) capacity in which presentation will be made, i.e., public official, organization

presentation, or citizen; and (5) time desired. Late requests and requests to speak received on the day of the meeting will be honored as time permits.

In addition, the Committee will accept written statements from interested parties concerning reform of the process. Written statements may be submitted at the public meetings or sent to the Executive Director of the Committee.

Dated: February 14, 1989.

Jean H. Hinckley,
Executive Director, Disability Advisory Committee.

[FR Doc. 89-3877 Filed 2-17-89; 8:45 am]

BILLING CODE 4190-11-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. N-89-1942]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: John Allison, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street Southwest, Washington, DC 20410, telephone (202) 755-6050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Cristy.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form

number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total numbers of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Date: February 13, 1989.

John T. Murphy,
Director, Information Policy and Management Division.

Proposal: Supportive Housing Demonstration Program (FR-2585).

Office: Housing.

Description of the Need for the Information and Its Proposed Use: This program is necessary to allow HUD to determine the eligibility of private non-profit organizations or governmental

entities to receive funding under the demonstration program. It is needed to assess the relative capability of these organizations to operate housing and supportive services for the homeless population.

Form Number: None.

Respondents: State or Local Governments and Non-Profit Institutions.

Frequency of Submission: On Occasion.

Estimated Burden Hours:

	Number of respond- ents	X	Frequen- cy of response	X	Hours per response	=	Burden hours
Permanent Housing.....	100		1		44		4,400
Environmental Assessment.....	100		1		14		1,400
Transitional Housing.....	300		1		44		13,200
Recordkeeping.....	400		1		1		400

Total Estimated Burden Hours: 19,400.

Status: Revision.

Contact: Morris Bourne, HUD, (202) 755-9075; John Allison, OMB, (202) 395-6880.

Date: February 13, 1989.

[FR Doc. 89-3983 Filed 2-17-89; 8:45 am]

BILLING CODE 4210-01-M

Office of the Assistant Secretary for Housing-Federal Housing Commissioner

[Docket No. N-89-1917; FR-26006]

Unutilized and Underutilized Federal Buildings and Real Property Determined by HUD To Be Suitable for Use for Facilities to Assist the Homeless

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies Federal property determined by HUD to be suitable for possible use for facilities to assist the homeless.

DATE: February 21, 1989.

ADDRESS: For further information, contact Morris Bourne, Director, Transitional Housing Department Staff, Room 9140, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 755-9075; TDD number for the hearing- and speech-impaired (202) 426-

0015. (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless v. Veterans Administration*, D.C.D.C. No. 88-2503-OG, HUD is publishing this Notice to identify Federal buildings and real property that HUD has determined are suitable for use for facilities to assist the homeless. The properties were identified from information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies. Today's Notice also contains a list of suitable properties from the current excess and surplus property inventory of the General Services Administration (GSA).

The court order required HUD to take certain steps to implement section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), which sets out a process by which Federal properties may be made available to the homeless. Under section 501(a) HUD is to collect information from Federal landholding agencies about unutilized and underutilized properties and then to determine, under criteria developed in consultation with the Department of Health and Human Services (HHS) and GSA, which of those properties are suitable for use for facilities to assist the homeless. The court order requires HUD to publish, on a weekly basis, a Notice in the *Federal Register* identifying property determined suitable. HUD

published the first Notice on January 9, 1989 (54 FR 667).

HUD's responsibility under section 501 is to determine the suitability of the properties for use as facilities to assist the homeless. It is important to note that, because HUD's determination of suitability is made without a specific proposal for use, approval for use is conditioned upon a number of factors, including the suitability of the property or any portion of the property for the type of activity planned, as well as the user's compliance with applicable federal, state, and local requirements that may govern the proposed use of the property. Buildings and land may also be found suitable even though they may be currently occupied or in use. Under section 501, the issue of availability is the responsibility of GSA and HHS.

Unutilized and underutilized properties identified in this Notice may ultimately be available for use by the homeless, but they are first subject to review by the controlling agencies, pursuant to the court's Memorandum opinion of December 14, 1988 and section 501(b) of the McKinney Act. Section 501(b) requires HUD to notify each Federal agency with respect to any property of such agency that has been identified as suitable. Within 30 days from receipt of the notice from HUD, the agency must transmit to HUD its intention to: (1) Declare the property excess to the agency's need, or to make the property available on an interim basis for use for facilities to assist the homeless; or (2) state the reasons that

the property cannot be declared excess or made available for such use on an interim basis.

First, if the controlling agency decides that the property cannot be declared excess or made available to the homeless for use on an interim basis, the property will no longer be available.

Second, if the controlling agency declares the property excess to the agency's need, that property may be made available for use by the homeless in accordance with applicable law and the court's order of December 12, 1988 and Memorandum of December 14, 1988, subject to screening by other Federal agencies that may wish to make use of the property. In accordance with its normal procedures, GSA will notify the public when properties that HUD has determined suitable are declared excess to the controlling agency's needs. The properties identified by GSA will be held available for expressions of interest for 30 days following GSA's notification to the public. Thus, applicants will have 30 days after the notification by GSA that the properties have been declared excess to submit an application or written expression of interest in a property to Judy Brietman, Division of Health Facilities Planning, Public Health Services, HHS, Room 17A-10 Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443-2265. (This is not a toll-free number.)

Finally, in lieu of declaring any particular property as excess, the controlling agency may decide to make the property available to the homeless for use on an interim basis. Public bodies and private nonprofit organizations wishing more information about a particular property identified with this Notice or wishing to make application for use of a particular property on an interim basis should contact the appropriate landholding agency at the following addresses: U.S. Navy: Andrea Wohlfeld, Code 20YAW, Naval Facilities Engineering Command, 200 Stovall Street, Alexandria, VA 22332 (202) 325-7342; U.S. Army military facilities: HQ-DA, Attn: DAEN-ZCI-P-Robert Conte, Room 1E671, Pentagon, Washington, DC 20360-2600 (202) 693-4583; U.S. Army civil works projects: Bob Swieconeck, HQ-US Army Corps of Engineers, Attn: CERE-MM, 20 Massachusetts Ave. NW., Washington, DC 20314-1000 (202) 272-1750; U.S. Air Force: Bill Kimball, HQ-USAF/LEER, Washington, DC 20332-0500 (202) 767-4384; Veterans Administration: Linda Tribby, 084A, Real Property Program Management, Veterans Administration, 810 Vermont Ave. NW., Washington, DC 20420 (202) 233-5026; GSA: James

Folliard, Federal Property Resources Services, GSA, 18th and F Streets NW., Washington, DC 20405, (202) 535-7067; U.S. Dept. of Education: William J. Carter, Institutional Receivables Branch, Department of Education, Room 5610, ROB-3, 7th and D Street SW., Washington, DC 20024-5321 (202) 732-4482; U.S. Dept. of Agriculture: James Wood, USDA, 14th and Independence Avenue SW., South Bldg., Room 1568, Washington, DC 20250 (202) 477-5225. (These are not toll-free telephone numbers.)

Detailed information about the properties identified in today's Notice from the current excess and surplus inventory of GSA may be obtained from James Folliard or Richard Stinson, Federal Property Resources Services, GSA, 18th and F Streets NW., Washington, DC 20405, (202) 535-7067. (This is not a toll-free telephone number.) Please refer to the GSA identification number given with each identified property. Public bodies and private nonprofit organizations wishing to apply for use of a property from the GSA excess and surplus inventory should submit a written expression of interest and a request for the necessary application forms, within 30 days from the date of this publication, to the HHS address given above.

Dated: February 14, 1989.
James E. Schoenberger,
General Deputy Assistant Secretary of
Housing—Federal Housing Commissioner.

Excess and Surplus Property; Number of Properties ()

Suitable Land (Landholding Agency: GSA)

Portion, Theodore Krencicki Estate (1), 142nd and Tracy Avenues, Village of Riverdale, IL, 2-T-IL-680
Veterans Administration (1), Ridgecrest & San Pedro, Albuquerque, NM, 7-GR-NM-421D
Former Firing Range (1), Old Fort Road (44 acres), Klamath Falls, OR, 9-I-OR-434F
Lewisville Lake (1), Denton County, TX, 7-D-TX-510J (Prohibition on construction for human habitation; storage use only)

Suitable Buildings (Landholding Agency: GSA)

Alaska Spaceflight Tracking Station (1), Building 22, North of Fairbanks, AK, 10-Z-AK-703 (Currently occupied by NOAA for satellite tracking)
Westover Air Force Base (1), Building 606, Chicopee, MA, 1-D-MA-716
Waltham Federal Center (1), Waltham, MA, G-MA-788

Indian School of Practical Nursing (1), 105 Indian School Road NW, Albuquerque, NM, 7-F-NM-509B
Former Firing Range (4), Old Fort Road, Klamath Falls, OR, 9-I-OR-434F
Starbuck Houses (5), Front Street, Starbuck, WA, 9-D-WA-979, 9-D-WA-979A, 9-D-WA-979B, 9-D-WA-979C, 9-D-WA-979D (Four vacant, one under long-term occupancy)

Unutilized and Underutilized Property Number of Properties ()

Suitable Land

VA Medical Center (1), Tuskegee, AL 36083, Agency: VA
Isabella Lake (1), Kern County, CA (1 hour NE of Bakersfield; Hwy 178 to Lake Isabella exit, left on Ponderosa Drive, ½ mile to top of road), Agency: Army
Casad Depot (1), New Haven, IN, Agency: GSA
Barkley Lake (1), Tract 2702, Rock Castle, KY, Agency: Army
Barkley Lake (1), Tract 2005, Eddyville, KY, Agency: Army
Wallace Lake & Reservoir Project (1), Monroe, LA (11-acre tract), Agency: Army
Bayou Bodeau Reservoir (2), Houghton, LA (Two tracts totaling 203 acres), Agency: Army
Portion, Buffumville Dam Flood Control (1), Gale Road, Carlton, MA, Agency: Army
VA Medical Center (1), Battle Creek, MI 49016, Agency: VA
Cherry Point Marine Corps Air Station (1), Havelock, NC, Agency: Navy
Almond Lake (1), Almond Lake, NY, Agency: Army
VA Medical Center (1), Fort Hill Avenue, Canandaigua, NY 14424 (License for use will be issued to local school district), Agency: VA
Former Eisenhower College (1), 88 Fall Street, Seneca Falls, NY (50 acres vacant land; subject to contract for sale of entire campus), Agency: Education
Lake Texoma (1), Property 44, Johnston County, OK, Agency: Army
Lake Texoma (1), Property 53, Johnston County, OK, Agency: Army
Webbers Falls Lock & Dam 16 (1), Property 5, Muskogee County, OK (no utilities on land), Agency: Army
Blue Marsh Lake Project (1), Portion, Tract 1037, Berks County, PA, Agency: Army
Raystown Lake (1), Corbins Bridge, PA, Agency: Army
Kinsua Dam and Allegheny Reservoir (2), Portions, Bone Run and State Line Run, Warren, PA, Agency: Army

VA Medical Center (1), Butler, PA,
Agency: VA
Mahoning Creek Lake (2), Tracts R 55 A
and R 56 A, RD 1, New Bethlehem, PA
16242-9603, Agency: Army
Crooked Creek Lake (2), RD 3, Ford City,
PA (Steep, hillside terrain), Agency:
Army
Ramey Solar Observatory Research Site
(1), Puerto Rico Route 110, Ramey, PR
00604-0261, Agency: USAF
Barkley Lake (1), Tract 8911,
Cumberland, TN, Agency: Army
Barkley Lake (1), Tract 11516, Ashland,
TN, Agency: Army
Lake Texoma (1), Property 185, Cooke
County, TX, Agency: Army
VA Medical Center (1), 1901 S. First St.,
Temple, TX 76504 (Part of property
near propane storage), Agency: VA
VA Medical Center (1), 4800 Memorial
Drive, Waco, TX 76053
Olin E. Teague Veterans Center (1), 1901
S. First St., Temple, TX 76504 (Portion,
13 acres), Agency: VA
Lower Granite Lock & Dam Project (1),
Asotin Quarry, Asotin, WA 99402,
Agency: Army
Lower Granite Lock & Dam Project (1),
Silcott Hills Rock Quarry, Clarkston,
WA 99403, Agency: Army
Darrington Ranger District (1), 1405
Emmons Street, Darrington, WA
98241, Agency: USDA

Suitable Buildings

Federal Building-Post Office (1), 107
Broad St., Camden, AL 36726
(Currently occupied as office),
Agency: GSA
U.S. Army Yuma Proving Ground (1)
Tract S-505 Yuma, AZ 85385-9102
Agency: Army
Capehart Housing (11), 1600 Area, North
Davis Drive, Warner Robins, GA
(Tracts 1676, 1677, 1678, 1679, 1680,
1682, 1683, 1684, 1685, 1686, 1687),
Agency: USAF
FSS Supply Depot (1), 4100 West 76th
St., Chicago, IL (Currently used as
office/lab/warehouse), Agency: GSA
Lockport Lock & Dam (1), Lockport, IL
60441, Agency: Army
Dresden Island Lock & Dam (1), 7521
North Lock Road, Morris, IL 60450,
Agency: Army
Casad Depot (1), New Haven, IN,
Agency: GSA
Barbourville Flood Protection (3), Tracts
300, 302, 305, Barbourville County, KY,
Agency: Army
Wurtsmith AFB (6), Buildings 5050,
5097, 7348, 7352, 7354, 7358, 379th CSG,
Wurtsmith AFB, MI 48753-5000,
Agency: USAF
Lightkeeper's Station (1), Little Rapids
Channel, Sault St. Marie, MI, Agency:
Army
Nike Battery KC-30 Site (1), Portion,
Bldg. 3001, Pleasant Hill, MD
(Installation 29630), Agency: Army
Nike Battery KC-30 Site (1), Portion,
Bldg. 3002, Pleasant Hill, MD
(Installation 29630), Agency: Army
Nike Battery KC-30 Site (1), Portion,
Bldg. 3003, Pleasant Hill, MD
(Installation 29630), Agency: Army
Nike Battery KC-30 Site (1), Portion,
Bldg. 3004, Pleasant Hill, MD
(Installation 29630), Agency: Army
Nike Battery KC-30 Site (1), Portion,
Bldg. 3005, Pleasant Hill, MD
(Installation 29630), Agency: Army
Nike Battery KC-30 Site (1), Portion,
Bldg. 3006, Pleasant Hill, MD
(Installation 29630), Agency: Army
Nike Battery KC-30 Site (1), Portion,
Bldg. 3007, Pleasant Hill, MD
(Installation 29630), Agency: Army
Nike Battery KC-30 Site (1), Portion,
Bldg. 3008, Pleasant Hill, MD
(Installation 29630), Agency: Army
Nike Battery KC-30 Site (1), Portion,
Bldg. 3028, Pleasant Hill, MD
(Installation 29630), Agency: Army
Building 9 (1), 607 Hardesty Street,
Kansas City, MO, Agency: GSA
Portion, Federal Building (1), 226
Carthage Street, Sanford, NC 27330
(199 sq ft available), Agency: GSA
Former Eisenhower College (17), 88 Fall
Street, Seneca Falls, NY (17 buildings;
subject to contract for sale of entire
campus), Agency: Education
Fort Hood (1), Building 1829, Fort Hood,
TX, Agency: Army
Fort Hood (1), Building 806, Fort Hood,
TX, Agency: Army
Fort Hood (1), Building 1130, Fort Hood,
TX, Agency: Army
Fort Hood (1), Building 1810, Fort Hood,
TX, Agency: Army
Fort Hood (1), Building 1813, Fort Hood,
TX, Agency: Army
Fort Hood (1), Building 2209, Fort Hood,
TX, Agency: Army
Fort Hood (1), Building 2210, Fort Hood,
TX, Agency: Army
National Guard Bee Cave (1), Building 9,
408 St. Stephens Road, Austin, TX,
Agency: Army
Federal Building: Courthouse (1),
Building TX0214ZZ, Del Rio, TX,
Agency: GSA
Federal Building (1), 317 First St.,
Wausaw, WI, Agency: GSA
VA Medical Center (1), Building 8,
Tomah, WI 54660 (Not for occupancy),
Agency: VA
Clement Zablocki VA Medical Center
(1), Building 41, 500 West National
Avenue, Milwaukee, WI 53295,
Agency: VA

[FR Doc 89-3827 Filed 2-17-89; 8:45 am]

BILLING CODE 4210-27-M

[Docket No. N-89-1941]

Submission of Proposed Information Collection to OMB

AGENCY: Office of the Assistant
Secretary for Housing—Federal Housing
Commissioner (HUD).

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: John Allison, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, telephone (202) 755-6050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Cristy.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35). It is also requested that OMB complete its review within seven days.

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total numbers of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the name and telephone number of an agency official familiar with the

proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Date: January 27, 1989.

James E. Schoenberger,
General Deputy Assistant Secretary for
Housing—Federal Housing Commissioner.

Proposal: Housing Development Grant (HDG) Program: Grantee Progress Report.

Office: Housing.

Description of the Need For the Information and Its Proposed Use: The HDG program regulations at 24 CFR Part 850.75 requires that each Grantee submit a progress report which addresses progress under the Grant from the date of preliminary funding approval through project closeout as it relates to construction, occupancy, expenditure of funds and other project accomplishments on a semi-annual basis. Collection of this information is necessary to evaluate the performance

and fulfillment of the Grantee reporting requirements as specified in the program regulations.

Form Number: HUD-90032, OMB No. 2502-0351.

Respondents: State or Local Units of Governments.

Frequency of Responses: Semi-annual.

Reporting Burden:

	Number of respondents	×	Frequency of recordkeeping	×	Hours per response	=	Burden hours
GPR monitoring recordkeeping	164		2		25.25		8,282

Total Estimated Burden Hours: 8,282.
Status: Reinstatement.

Contact: Mattie M. Moore, HUD (202) 755-6142; John Allison, OMB (202) 395-6880.

Date: January 27, 1989.

Supporting Statement,

Housing Development Grant
Information System Semi-Annual
Progress Report Form HUD-90032

1. Need for Reinstatement

This form was inadvertently cancelled. This is a request to have it reinstated. The expiration date was October 31, 1988. Since that time Congress has not authorized HDG funding. Therefore, there will be no new projects. The deadline date should be reinstated for another three (3) years to carry the program functions through extinction in 1991. Grantees will continue to use Form HUD-90032 to fulfill the reporting requirements of 24 CFR 850.75.

2. Necessity of Information

The information is necessary to continue execution of the Housing Development Grant Program in Title III, Section 301 of the HURRA Legislation. Collection of this information is very important for the fulfillment of grantee reporting requirements specified in the program regulations at 24 CFR Part 850 (Subparts D, E, and F). At Subpart E of the program regulations, HUD is required to review grantee performance under the grant from the date of preliminary funding approval through project closeout (50 percent occupancy). Subpart D requires that the grantee submit a semi-annual progress report covering activity under the grant,

including, but not limited to information related to project construction, costs, schedules and occupancy. Subpart F requires the Grantee and Owner to enter into an agreement that carries out the requirements that foster the provisions of applicable civil rights statutes and the laws covering the Housing Development Grant Program. Since, there is no appropriation for future funding for the program we estimate that there will be a firm total of 164 awards.

Each grantee is required to sign a grant agreement with HUD for each funded project. This document specifies the use and conditions of the grant and provides a schedule for completing activities. This is the document against which HUD monitors progress. The report will be used by the Department to evaluate Grant Agreement compliance and construction/rehabilitation progress. The data will be automated for ease of use to the Department, OMB, and Congress.

Grantees will be required to submit a GPR for each grant awarded, resulting in 328 responses per year (164 x 2 responses) for an approximate 3 year period. The attached line-by-line "explanation" of the GPR is provided.

3. Information Technology

Improved information technology is not applicable to the collection of this data. The requirements of the status and regulations preclude reducing the burden below the level required by the GPR. We are not requesting information which is not necessary for the specific and required implementation of the program.

4. Duplication

We have made every effort to design the GPR to avoid duplication of data. The form was specifically constructed to avoid repeating contextual material. There is no duplication of effort.

5. Alternative Data

There is no substitute for this form. Each GPR must supply information required by the specific status and project specific data not otherwise available.

6. Small Business

The GPR is submitted by a State or unit of general local government, so no small businesses are burdened by the GPR requirements.

7. Frequency

The GPR is submitted only twice for each Fiscal Year. Frequency cannot be reduced.

8. 5 CFR 1320.6

We are aware of no inconsistencies.

9. Outside Consultation

The HDG program has been through four funding cycles. Only statutorily-mandated data are being collected, and therefore, outside consultation would be of marginal value at best.

10. Confidentiality

No assurances of confidentiality are given.

11. Sensitive Material

The GPR form will contain no sensitive material.

12(a). Annual Cost to Federal Government

Review Hours per form	5
Number of forms	x164
Total Hours (Semi-Annually)	820
Total Annual Hours	1,640
Cost per Hour	\$19.45
Overhead (20%)	\$3.89
Total Cost per Hour	\$23.34
Total Annual Cost to Government	\$38,277.60

The form will not need to be reproduced, extended date to be handwritten.

12(b). Annual Cost to Respondents

Number of forms	328
Hours per form	25.25
Total hours per year	8282

Cost per hour	\$20.00
Overhead (20%)	\$4.00
Total cost per hour	\$24.00

Total annual cost to respondents (\$24 per Hr x 8517 Hrs) \$198,768.

13. Estimate of Burden

Section 850.77 of the Regulations requires the grantee to maintain certain records for project monitoring, audits and reviews by HUD. These recordkeeping requirements are not in addition to those required or used in the preparation of the Grantee Progress Report (GPR). Therefore, no separate recordkeeping burden is estimated. The recordkeeping burden is included in each stage of the GPR as shown below. The over-all burden estimate of 25.25 hours for report was derived from the

following tabulation and is based on input from both the owner and the grantee.

GPR	Grantee	Owner	Total Project
Description status	0.25		0.25
Disbursement of funds	3.00	2.00	5.00
Land acquisition	0.25	0.25	0.50
Relocation	7.00	1.00	8.00
Construction/rehabilitation	0.25	1.00	1.25
Occupancy	0.25	3.00	3.25
Contracting	2.00	5.00	7.00
Total	13.00	12.25	25.25

14. Reason for change in Burden Hours—NA

15. Publication for Statistical Use
Not Applicable.

LINE-BY-LINE EXPLANATION OF THE GPR

GPR	Regulatory reference	Statutory reference	Explanation/justification
Project description status	850.33 and 850.37	None	This is the project identifying information to be supplied by HUD based on information in the application and HUD records. The grantee will be required to update this information where changes might occur (e.g., the contact person may change over time) or if HUD has made an error. In most cases the grantee will not be required to do more than check these data elements for accuracy.
Disbursement of funds	850.75		This Section relates to progress in meeting schedules supplied in the Grant Agreement.
Items 1 and 2			Grantee responses are requested for verification with records retained by the program office and Treasury Reports. Until all grant funds have been disbursed, the program office will monitor every request to draw against the grant.
Item 3			This amount is required to verify length of time between draw-down requests and disbursement in accordance with Treasury guidelines.
Items 4 thru 7			These are required to determine the rate at which non Federal funds are being expended so as to verify whether HDG funds are being drawn down at a rate in accordance with the approved ratio.
Land acquisition		None	This date records one of the first steps in starting the development.
Relocation	850.35	17(d)(g)	By regulation and statute, relocation payments must be made to individuals whether or not the activity is conducted under the Relocation Act. Questions concerning displaced/relocated business pertain to the Fair Housing and Equal Opportunity Civil Rights reporting requirements.
Construction/rehabilitation	850.75		This section is intended to show progress of actual construction.
Occupancy	850.75		This section is intended to show progress of occupancy and provide a gauge to HUD for implementing closeout procedures.
Contracting	850.63		The regulations require that a minority and women's business enterprise plan be in place which is an affirmative program to involve minority and women's businesses in the construction contracts and subcontracts for each HDG project.

Housing Development Grant Grantee Progress Report

U.S. Department of Housing
and Urban Development
Office of Housing
Federal Housing Commissioner



OMB Approval No. 2502-0351 (exp. 10/31/88)

Public reporting burden for this collection of information is estimated to average 25.25 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Reports Management Officer, Office of Information Policies and Systems, U.S. Department of Housing and Urban Development, Washington, D.C. 20410-3600 and to the Office of Management and Budget, Paperwork Reduction Project (2502-0351), Washington, D.C. 20503.

Date of HUD Transmittal mm dd yy	Project Number	Project Name
City Name	Signature of Authorized Official	X

The information provided was taken from HUD's Housing Development Grant Information System and reflects the status of your project as last reported. Please update the information so these data will describe your cumulative progress as of the end of the period being reported. Enter any changes in data or net worth in the column entitled "Changes in Data". If there are no changes to the data, leave the "Changes in Data" column blank. To delete data, enter the word "delete" in the "Changes in Data" column opposite the field or data to be deleted. Should you have any questions, please contact the Housing Development Grant Division at (202) 755-6142.

Please submit the entire report to HUD no later than (date):

Send one copy of the entire report to Headquarters addressed as follows:

U.S. Department of Housing
and Urban Development
Development Grant Division, Room 6110
451 7th Street, S.W.
Washington, D.C. 20410

Attn: Housing Development Grant Specialist

Send the original of the entire report to the HUD office serving your Housing Development Grant:

Project Description/Status	Project Data	Change Data
1. Project number		
2. Project - Ending date last reported		
3. Project name		
4. Contact person for project		
5. Contact person's address: Organization/Room Number and Street City, State, ZIP Code		
6. Contact person's phone number (incl. area code)		
7. Total number of units to be rehabilitated		
8. Total number of units to be constructed		
9. Total number of lower-income units		
10. Total number of very-low-income units committed		
10a. As a result of displacement requirements		
10b. As a result of ranking points		
11. Amount of Housing Development Grant awarded		
12. Project leveraging ratio		
13. Date grant agreement signed by HUD		
14. Date grant agreement signed by city		
15. Number of amendments to grant agreement		
16. Date latest amendment signed by HUD		
17. Date latest amendment signed by city		
18. Date release of funds and environmental certification approved by HUD		
19. Date affirmative fair housing marketing plan approved by HUD		
20. Date minority-owned business development plan received by HUD		
21. Date women-owned business development plan received by HUD		
22. Date all evidentiary materials received by HUD		
23. Date all evidentiary materials approved by HUD		
24. Effective date of letter of credit / letter of credit amendment		

form HUD-90032 (2/89)

Item Description	Project Data	Change Data
Disbursement of Funds		
1. Date of last authorized drawdown request		
2. Amount of Housing Development Grant Authorized for drawdown to date		
3. Amount of Housing Development Grant funds on hand to date		
4. Total private investment committed		
5. Amount of private investment spent to date		
6. Total public funds committed		
7. Amount of public funds spent to date		
Land Acquisition		
1. Actual start date		
2. Percent completed		
3. Estimated or actual completion date		
Relocation		
1. Total number of households to be permanently displaced		
2. Number of households permanently displaced to date with relocation payments		
3. Total number of households to be temporarily relocated		
4. Number of households temporarily relocated to date with relocation payments		
5. Total amount allocated for household relocation to date		
6. Total amount spent to date for household relocation payments		
7. Total number of businesses to be displaced or relocated		
8. Number of minority businesses to be displaced or relocated		
9. Number of women-owned businesses to be displaced or relocated		
10. Completion date for all relocation activities		
Construction / Rehabilitation		
1. Start date		
2. Percent complete		
3. Completion date		
4. New housing units completed to date		
5. Rehabilitated housing units completed to date		
Occupancy		
1. Date of Initial Occupancy		
2. Estimated or actual date of 50% occupancy		
3. Number of units occupied to date		
4. Number of lower-income units occupied to date		
5. Number of lower-income units occupied by very-low-income tenants to date		
Contracting		
1. Number of contracts/subcontracts awarded to date		
2. Dollar amount of contracts/subcontracts awarded to date		
3. Number of contracts/subcontracts awarded to minority firms to date		
4. Dollar amount of contracts/subcontracts awarded to minority firms to date		
5. Number of contracts/subcontracts awarded to women-owned firms to date		
6. Dollar amount of contracts/subcontracts awarded to women-owned firms to date		

DEPARTMENT OF THE INTERIOR**Office of the Secretary****Privacy Act of 1974; Establishment of New Notice of System of Records**

Pursuant to the provisions of the Privacy Act of 1974, as amended (5 U.S.C. 552a), notice is hereby given that the Department of the Interior proposes to establish a new notice describing a system of records maintained by the Department's Office of the Solicitor. The notice is entitled "SMCRA Litigation Tracking System (LTS)—Interior, Office of the Solicitor-5" and describes records on litigation involving individuals and entities responsible for unabated Federal violations or unpaid penalties or fees arising under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The notice is published in its entirety below.

As required by Section 3 of the Privacy Act of 1974, as amended (5 U.S.C. 552a(r)), the Office of Management and Budget, the Senate Committee on Governmental Affairs, and the House Committee on Government Operations have been notified of this action.

5 U.S.C. 552a(e)(11) requires that the public be provided a 30-day period in which to comment on the intended use of the information in the system of records. The Office of Management and Budget in its Circular A-130 requires a 60-day period to review such proposals. Therefore, written comments on this proposal can be addressed to the Department Privacy Act Officer, Office of the Secretary (PMI), Room 2242, Main Interior Building, U.S. Department of the Interior, Washington, DC 20240. Comments received on or before March 23, 1989, will be considered. The notice shall be effective as proposed without further publication at the end of the comment period, unless comments are received which would require a contrary determination.

Oscar W. Mueller, Jr.,

Director, Office of Management Improvement.

Date: February 13, 1989.

INTERIOR/SOL-5**SYSTEM NAME:**

SMCRA LITIGATION TRACKING SYSTEM (LTS)—Interior, Office of the Solicitor-5.

SYSTEM LOCATION:

Division of Surface Mining, Office of the Solicitor, U.S. Department of the Interior, Washington, DC, and field locations. For specific addresses of field locations contact: Associate Solicitor for Surface Mining, Mail Stop 6411, U.S.

Department of the Interior, 18th & C Streets, NW., Washington, DC 20240.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The system contains the names of individuals and entities responsible for unabated federal violations, unpaid federal civil penalties, or outstanding abandoned mine land reclamation fees (AML fees) arising under the Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1201 *et seq.* (SMCRA), where the Office of Surface Mining Reclamation and Enforcement (OSMRE) has referred the outstanding violation or debt to the Solicitor's Office for litigation, and the names of individuals or entities who own or control entities responsible for such unabated federal violations, unpaid federal civil penalties, or outstanding AML fees arising under SMCRA. Although the system of records contains information about individuals and entities, only the records about individuals are subject to the provisions of the Privacy Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Case tracking information including individuals and entities associated with the litigation (names, addresses, and other identifiers, if available); (2) violator information obtained from OSMRE inspection, enforcement, assessment, auditing, and collection records (including OSMRE computer systems); (3) ownership, control, and financial information on coal mining operations obtained from the aforementioned records, State regulatory authority records, Mine Safety and Health Administration (MSHA) legal identity forms and other MSHA records, State corporation commission or secretary of State records, clerk of court records, company or operator financial reports, and investigative reports provided to OSMRE under contract; and (4) information on the status of each case (such as complaint filed and judgment entered dates).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1201 *et seq.*

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The primary uses of the records are to: (a) Allow for tracking, cases through the judicial system; (b) enable the Solicitor's Office to assist OSMRE and State regulatory authorities in making decisions to withhold or revoke permits of entities or individuals in violation of

SMCRA; (c) provide statistics by company, region, judicial district, State, and nationwide for management purposes; (d) provide for case management reports, including reports linking two or more data, bases by any of numerous criteria; and (e) enable Solicitor's Office and OSMRE management to effectively monitor their program requirements. Disclosures outside the Department of the Interior may be made: (1) To the appropriate federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order when the Department of the Interior becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (2) to a Congressional office, upon request, including information from the record of an individual in response to an inquiry the individual has made to the Congressional office; (3) to public interest groups as may be required under SMCRA or the January 31, 1985, Revised Order in *Save Our Cumberland Mountains, Inc. v. Hodel*, No. 81-2134 (D.D.C. 1985); (4) to the U.S. Department of Justice or to a court or other adjudicative body of competent jurisdiction when (a) the United States, the Department of the Interior, a component of the Department, or, when represented by the government, an employee of the Department is a party to litigation or anticipated litigation or has an interest in such litigation, and (b) the Department of the Interior determines that the disclosure is relevant or necessary to the litigation and is compatible with the purpose for which the records were compiled.

DISCLOSURE TO CONSUMER REPORTING AGENCIES: Pursuant to 5 U.S.C. 552a(b)(12), disclosures may be made to a consumer reporting agency as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)), or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

Maintained on computer usable media.

RETRIEVABILITY:

Data is retrievable by any of a number of data fields such as assigned index number, company name, individual name, attorney, State, permit number, and violation number.

SAFEGUARDS:

Maintained with safeguards meeting the requirements of 43 CFR 2.51 for computerized records.

RETENTION AND DISPOSAL: Data stored on computer-usable media will be retained until it is determined that the data is no longer needed or required. ADP printout records will be disposed of periodically (generally monthly or quarterly) when superseded. Records are retained and disposed of in accordance with Office of the Secretary Comprehensive Records Disposal Schedule No. NC1-48-77-1; item number H11.

SYSTEM MANAGER AND ADDRESS:

Associate Solicitor for Surface Mining, Office of the Solicitor, Mail Stop 6411, U.S. Department of the Interior, 18th & C Streets, NW., Washington, DC 20240.

NOTIFICATION PROCEDURE:

Persons wanting to determine whether the system maintains information on them should write to the System Manager. See 43 CFR 2.60 for the form of request.

RECORD ACCESS PROCEDURES:

Anyone wanting to see their records should write to the System Manager. All requests should describe as specifically as possible the records sought and be marked "Privacy Act Request for Access." See 43 CFR 2.63 for the required content of request.

CONTESTING RECORD PROCEDURES:

A petition for amendment should be addressed to the System Manager and must meet the content requirement of 43 CFR 2.71. The petition for amendment must be submitted in writing.

RECORD SOURCE CATEGORIES:

(1) OSMRE and State coal mining permit files, both manual and automated; (2) OSMRE and State regulatory program files, both manual and automated; (3) MSHA legal identity forms and other records; (4) individual, operator, and company financial reports; (5) State corporation commission, secretary of State, taxation authorities, municipal, county, and clerk of court records; (6) individual or company net worth determination reports prepared by, OSMRE contractors; (7) Department of the Interior Solicitor's Office files; (8) investigative, reports prepared for litigation; (9) federal and State court records, including bankruptcy courts; and (10) Department of the Interior Office of Hearings and Appeals records.

[FR Doc. 89-3876 Filed 2-17-89; 8:45 am]

BILLING CODE 4310-17-M

Bureau of Land Management

[CA-050-09-4311-12]

Closure of Public Lands; California**ACTION:** Closure order for public use.

SUMMARY: Notice is hereby given related to the closure of Bureau of Land Management (BLM) administered lands to all public use in accordance with regulations contained in 43 CFR Subpart 8364.1. Approximately 2,800 acres located in portions of Sections 6, 7, 8, 17, 18, 19, T. 22 N., R. 16 W., M.D.M., known as the Elkhorn Ridge Management Area and Elkhorn Ridge Road (No. 5114) north of Jack of Hearts Creek will be temporarily closed to all public use from March 1, 1989 through November 1, 1989. The purpose is to protect persons, property, and public lands and resources. Employees, agents, permittees and contractors of the BLM may be exempt from this closure as determined by the authorized officer.

DATE: This closure order is effective March 1, 1989.

SUPPLEMENTARY INFORMATION: The purpose of this temporary closure order is to protect the public lands and resources affected from additional disturbance and damage caused by persons engaged in activities which include, but are not limited to, the following:

- a. Creating a hazard or nuisance—the Elkhorn Ridge Road (No. 5114) was damaged when a deep ditch and other barriers were constructed across the roadway. This created a safety hazard for those individuals, permittees and contractors authorized to use this road due to the increased potential for vehicle accidents and bodily injuries;
- b. Refusing to disperse when directed to do so by an authorized officer; and
- c. interfering with BLM employees, contractors, and permittees engaged in the performance of official duties.

These activities are in violation of Federal regulations pursuant to 43 CFR Subpart 8365.1-4(b-e) (and 48 FR 36384, August 10, 1983; 48 FR 52058, November 16, 1983).

As a result of the aforementioned activities conducted by these demonstrators, certain lawful users were prevented from implementing their contract with the BLM. According to regulations contained in 43 CFR Subpart 4140.1(b)(7), interfering with lawful uses or users of the public lands is a prohibited act and persons performing such acts may be subject to a fine of not more than \$1,000 or imprisonment for no more than twelve months or both.

Maps showing the closure area are on file at the Bureau of Land Management,

Arcata Resource Area Office, Arcata, California.

John T. Lloyd,
Arcata Area Manager.

[FR Doc. 89-3740 Filed 2-17-89; 8:45 am]

BILLING CODE 4310-40-M

Fish and Wildlife Service

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Service's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Service Clearance Officer and the Office of Management and Budget, Paperwork Reduction Act Project (1018-0017), Washington, DC 20503, telephone 202-395-7340.

Title: Application for Federal Bird Marking and Salvage Permit.

OMB Approval Number: 1018-0017.

Abstract: The application provides information needed to evaluate an applicant's qualifications to obtain a marking and salvage permit. Such permit is required for persons who band birds, usually for research or management purposes. The banding data collected is used by the Service to make management recommendations and decisions for threatened and endangered species and as a basis for setting the annual frameworks for migratory game bird hunting regulations.

Service Form Number: 3-481.

Frequency: On occasion.

Description of Respondents: Individuals and households, and State and local governments.

Estimated Completion Time: The reporting burden is estimated to be .5 minutes per response.

Annual Responses: 450.

Annual Burden Hours: 225.

Service Clearance Officer: James E. Pinkerton, 202-653-7500 Room 859 Riddell Building, U.S. Fish and Wildlife Service, Washington, DC 20240.

Dated: February 1, 1989.

David Olsen,

Acting Assistant Director—Refuges and Wildlife.

[FR Doc. 89-3873 Filed 2-17-89; 8:45 am]

BILLING CODE 4310-55-M

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Service's Information Collection Clearance Officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Service and OMB, Paperwork Reduction Act Project (1018-0013), Washington, DC 20503, telephone 202-395-7340.

Title: Request for Banding Data.

OMB Approval No. 1018-0013.

Abstract: The report is completed by licensed bird banders and provides banding data when a bird band recovery report on a specific band number is received and there is no matching band data on file. Such data is used by Federal, State, and Provincial personnel, conservation organizations, and scientific cooperators to aid in the study of population size, mortality and survival rates, longevity and migration patterns of birds. Band recovery information is also used in the preparation of the annual United States and Canadian Wildlife Service's hunting and shooting regulations.

Service Form number: 3-860a.

Frequency: On occasion.

Description of Respondents: Individuals and households, and licensed bird banders.

Estimated Completion Time: The reporting burden is estimated to average .033 hours per response.

Annual Responses: 4,000.

Annual Burden Hours: 133.

Service Information Collection Clearance Officer: James E. Pinkerton, 202-653-7500, 859 Riddell Building, U.S. Fish and Wildlife Service, Washington, DC 20240.

Date: February 1, 1989.

David Olsen,

Acting Assistant Director, Refuges and Wildlife.

[FR Doc. 89-3874 Filed 2-17-89; 8:45 am]

BILLING CODE 4310-55-M

Receipt of Applications for Permits

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

PRT 735042

Applicant: San Antonio Zoological Gardens, San Antonio, TX

The applicant requests a permit to import one captive-born male Sumatran tiger (*Panthera tigris sumatrae*) from the Rotterdam Zoo, Netherlands, for the purpose of enhancement of propagation.

PRT 733843

Applicant: Tamara Olson, APO New York, NY 09755

The applicant requests a permit to import one pair of captive-born Indian pythons (*Phyton molurus molurus*) from Richard Beardwell, Banbury Oxon, England, for enhancement of propagation and survival of the species.

PRT 735047

Applicant: Ellen Trout Zoo, Lufkin, TX

The applicant requests a permit to import one female captive-bred jaguar (*Panthera onca*) from the Granby Zoo, Quebec, Canada, for purposes of display and breeding.

PRT 735048

Applicant: Thomas Patrick Wopperer, West Falls, NY

The applicant requests a permit to purchase in interstate commerce one pair of captive-bred nene geese (*Nesochen sandvicensis*) from Herman Correia, Tiverton, RI, for the purpose of enhancement of propagation of the species.

PRT 734308

Applicant: Chicago Academy of Sciences, Chicago Peregrine Release Project Chicago, IL

The applicant requests a permit to take (capture, band and immediately release) nestling peregrine falcons (*Falco peregrinus*) that are produced this year in and around the city of Chicago.

PRT 735221

Applicant: Society of Scientific Care, Inc., Valley Center, CA

The applicant requests a permit to export one pair of captive-born tiger cats (*Felis tigrinus*) to the Kilverstone Wildlife Park, Norfolk, England, for the purpose of enhancement of propagation.

Documents and other information submitted with these applications are available to the public during normal business hours (7:45 am. to 4:15 pm) Room 403, 1375 K Street NW., Washington, DC 20005, or by writing to the Director, U.S. Office of Management Authority, P.O. Box 27329, Central Station, Washington, DC 20038-7329.

Interested persons may comment on any of these applications within 30 days of the date of this publication by submitting written views, arguments, or data to the Director at the above address. Please refer to the appropriate PRT number when submitting comments.

Date: February 14, 1989.

R.K. Robinson,

Chief, Branch of Permits, U.S. Office of Management Authority.

[FR Doc. 89-3984 Filed 2-17-89; 8:45 am]

BILLING CODE 4310-AN-M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before February 11, 1989. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, DC 20013-7127. Written comments should be submitted by March 8, 1989.

Carol D. Shull,

Chief of Registration, National Register.

ALABAMA

Calhoun County

Greenwood, Jct. Old Anniston—Gadsden Rd. and Co. Rd. 25, Alexandria vicinity, 89000162

Henry County

Oates House, 402 Kirkland St., Abbeville, 89000164

Jefferson County

Manchester Terrace, 720-728 S. 29th St., Birmingham, 89000163

ARIZONA**Maricopa County**

El Zaribah Shrine Auditorium, 1502 W. Washington St., Phoenix, 89000168

Yavapai County

East Prescott Historic District, Roughly bounded by Atchison, Topeka, and Santa Fe Railroad tracks, M. Mt. Vernon St., Carleton St. and M. Alarcon St., Prescott, 89000165

ARKANSAS**Independence County**

Pfeiffer House, US 167, Pfeiffer, 89000172

Pulaski County

Woodruff, William, House, 1017 E. 8th St., Little Rock, 89000173

MINNESOTA**Wadena County**

Wadena Fire and City Hall, 10 SE Bryant Ave., Wadena, 89000167

MISSISSIPPI**Lauderdale County**

Beth Israel Cemetery, 19th St. and 5th Ave., Meridian, 89000169

Oktibbeha County

Walker—Critz House, 414 Chapin St., Starkville, 89000171

Pike County

Brentwood, 601 Delaware Ave., McComb, 89000170

NORTH CAROLINA**Onslow County**

Mattocks, William Edward, House, 109 Front St., Swansboro, 89000166

Rockingham County

First Baptist Church, 538 Greenwood St., Eden, 89000178
Leaksville—Spray Institute, 609 College St., Eden, 89000179
St. Luke's Episcopal Church, 604 Morgan Rd., Eden, 89000177

OHIO**Fayette County**

Burnett, William, House, 1613 US 62 SW, Washington Court House, 89000176

Franklin County

Hamilton, Gilbert H., House, 290 Cliffside Dr., Columbus, 89000175

Summit County

St. Bernard's Church, 240 S. Broadway St., Akron, 89000174

VIRGINIA**Loudoun County**

Catoctin Rural Historic District, Roughly bounded by the Potomac River, Rt. 837, and Catoctin Mountain, Leesburg vicinity, 89000161.

[FR Doc. 89-3871 Filed 2-17-89; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[Section 5a Application No. 99; Amndmt. 2¹]

Nebraska Motor Carriers' Association Petroleum Carriers' Conference, Inc.; Agreement

AGENCY: Interstate Commerce Commission.

ACTION: Notice of decision and request for comment.

SUMMARY: Nebraska Motor Carriers' Association Petroleum Carriers' Conference, Inc. (Nebraska) has filed, pursuant to section 14(e) of the Motor Carrier Act of 1980 (MCA), an application for approval of its ratemaking agreement under 49 U.S.C. 10706(b). Since some modifications are required before the agreement receives final approval, and because new and complex questions are involved in determining whether the agreement is consistent with the MCA, the Commission solicits public comment on its interpretation and application of specific rate bureau provisions. Copies of Nebraska's proposed amended agreement are available for public inspection and copying at the Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423, and from Nebraska: Sandra Bergmann, Nebraska Motor Carriers' Association, Petroleum Carriers' Conference, Inc., 1701 K Street, Lincoln, NE 68508.

DATES: Comments from interested persons are due March 23, 1989. Replies are due 15 days thereafter.

ADDRESS: An original and 10 copies, if possible, of comments referring to Section 5a Application No. 99, Amendment No. 2, should be sent to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT:

Ronald Thomas, (202) 275-7912

or

Richard Felder, (202) 275-7691

[TDD for hearing impaired: (202) 275-1721.]

SUPPLEMENTARY INFORMATION: We have provisionally approved Nebraska's agreement as consistent with 49 U.S.C. 10706(b) and *Motor Carrier Rate Bureaus—Imp. P.L. 96-296, 364 I.C.C. 464 (1980) and 364 I.C.C. 921 (1981) (Rate Bureau)*, subject to certain conditions and modifications in the following subject areas: identification and description of member carriers; right of

independent action; rate bureau protests, open meetings; final disposition of cases; general standards; single-line rates; general increases and decreases; zone of rate freedom and released rates; intrastate carrier membership; and amendments to bylaws. We have also offered comments and imposed requirements concerning the agreement generally. Nebraska has been directed to file a revised agreement conforming to the imposed conditions within 120 days of service of the decision.

In light of the complexity of interpretation involved in determining whether the agreement is consistent with the MCA and *Rate Bureau*, we request applicant and other interested parties to comment on our interpretation of the controlling statutory and administrative criteria, and their application to Nebraska's agreement.

A copy of any comments filed with the Commission must also be served on Nebraska, which will have 15 days from the expiration of the comment period to reply. These comments will be considered in conjunction with our review of the modifications that Nebraska must submit to the Commission as a condition to final approval of its agreement.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

Additional information is contained in the Commission's decision. To obtain a copy of the full decision, write to, call, or pick up in person from: Office of the Secretary, Room 2215, Interstate Commerce Commission, Washington, DC 20423. Telephone: (202) 275-7428. [Assistance for the hearing impaired is available through TDD services (202) 275-1721.]

Authority: 49 U.S.C. 10321 and 10706 and 5 U.S.C. 553.

Decided: February 9, 1989.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Andre, Lamboley, and Phillips.

Noreta R. McGee,

Secretary.

[FR Doc. 89-3863 Filed 2-17-89; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE**Lodging of Consent Decree; Adac, et al.**

In accordance with the policy of the Department of Justice, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States v. Adac*,

¹ Section 5 was recodified as section 10706.

et al., Civil Action No. 89-0306S was lodged with the United States District Court for the District of Massachusetts on February 9, 1989. The action was filed pursuant to Sections 106 and 107 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9606 and 9607. The complaint sought to enjoin the named defendants to perform the remedy at the Re-Solve Inc. Site in North Dartmouth, Massachusetts, the reimbursement of any natural resource damages and the recovery of costs incurred by the United States in connection with the Site.

Under the terms of the Consent Decree, 55 Settling Defendants will perform the remedy at a cost of approximately \$22,750,000 with the Hazardous Trust Superfund paying approximately \$7,100,000 of that amount. The 55 Settling Defendants will also pay \$7,050,000 in operation and maintenance costs and pay an amount of past costs allocated to them under a procedure known as the Non-binding Preliminary Allocation of Responsibility ("NBAR"). In addition, 169 parties will settle as *De Minimis* Settling Defendants by paying their NBAR share of past costs and by paying a premium for being allowed to settle as *de Minimis* parties. As a result of this settlement the United States and the Commonwealth of Massachusetts will receive money and work from 224 parties valued at over \$31 million out of approximately \$41 million in total expected cleanup costs, or nearly 75% of the total expected costs.

The Department of Justice will receive comments relating to the proposed consent decrees for a period of thirty (30) days from the date of this publication. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, U.S. Department of Justice, 10th Street and Pennsylvania Avenue, NW., Washington, DC 20530. All comments should refer to *United States v. Adac, et al.*, DOJ Reference No. 90-11-2-58.

The proposed consent decree may be examined at the following offices of the United States Attorney and the Environmental Protection Agency ("EPA"):

U.S. Attorney's Office, District of Massachusetts, 1107 John W. McCormack Fed. Bldg., USPO & Courthouse, Boston, Massachusetts 02109

U.S. EPA, Region I, Office of Regional Counsel, John F. Kennedy Fed. Bldg., Room 2203, Boston, Massachusetts 02203

Copies of the proposed consent decree may also be examined at the

Environmental Enforcement Section, Land and Natural Resources Division, United States Department of Justice, Room 1748, 10th Street and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the proposed consent decree may be obtained by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy of the decree please enclose a check (10 cents per page for reproduction cost) in the amount of \$6.70 payable to Treasurer of the United States.

Donald A. Carr,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 89-3926 Filed 2-17-89; 8:45 am]

BILLING CODE 4410-01-M

Notice of Lodging of Consent Decree Pursuant to Clean Water Act; Green Forest, AR, et al.

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on Jan. 28, 1989 a proposed consent decree in *United States v. City of Green Forest, Arkansas and The State of Arkansas*, Civil Action No. 87-3010, was lodged with the United States District Court for the Western District of Arkansas. The proposed consent decree concerns a complaint filed by the United States that alleged violations of section 301 of the Clean Water Act, 33 U.S.C. 1311 at the City's wastewater treatment plant. The complaint alleged that the City discharged pollutants into navigable waters in excess of the limitations in the City's National Pollutant Discharge Elimination System ("NPDES") permit, violated Administrative Orders issued by EPA, and violated its permit monitoring and reporting requirements. The State of Arkansas was named as party pursuant to section 309(e) of the Act, 33 U.S.C. 1319(e). The complaint sought injunctive relief to require the City to comply with its NPDES permit and the Administrative Orders and civil penalties for past violations. The consent decree provides that the City shall henceforth fully comply with its permit and the Clean Water Act. The City is also required to pay a civil penalty of \$15,000 in settlement of the government's civil penalty claims.

The Department of Justice will receive for a period of thirty (30) days from the date of the publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division,

Department of Justice, Washington, DC 20530, and should refer to *United States v. City of Green Forest, Arkansas et al.*, D.J. Ref. 90-5-1-1-2841.

The proposed consent decree may be examined at the office of the United States Attorney for the Western District of Arkansas, U.S. Post Office and Courthouse Building, 6th and Rogers, Fort Smith, Arkansas 72901 and at the Region VI Office of the United States Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas 75202. Copies of the consent decree may also be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1515, Ninth Street and Pennsylvania Avenue NW., Washington, DC. 20530. A copy of the proposed decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of \$1.50 (10 cents per page reproduction cost) payable to the Treasurer of the United States.

Donald A. Carr,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 89-3956 Filed 2-17-89; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Stipulation and Decree Regarding Feasibility Study for Hazardous Waste Site; Occidental Chemical Corp.

In accordance with Department Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that a proposed Stipulation and Decree in *United States v. Occidental Chemical Corporation*, Civil Action No. 79-987C, was lodged with the United States District Court for the Western District of New York on February 10, 1989. The proposed Stipulation and Decree provides that defendants Occidental Chemical Corporation and Olin Corporation shall perform a Feasibility Study for the 102nd Street Landfill site in Niagara Falls, New York, to satisfy the requirements of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9601 *et seq.*, and to generate information to aid in developing a remedial program for the site. In order to expedite completion of the study and remediation of the site, the parties have agreed to commence work on the study prior to entry of the Stipulation and Decree.

The Department of Justice will receive for a period of thirty (30) days from the

date of publication of this notice, written comments relating to the proposed Stipulation and Decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, United States Department of Justice, Washington, DC 20530, and should refer to *United States v. Occidental Chemical Corporation*, D.J. Ref. No. 90-7-1-39.

The proposed Stipulation and Decree may be examined at the office of the United States Attorney, Western District of the New York, 502 U.S. Courthouse, 68 Court Street, Buffalo, New York 14202; at the Region II office of the United States Environmental Protection Agency, 26 Federal Plaza, New York, New York 10278; and at the Environmental Enforcement Section, Land and Natural Resources Division, United States Department of Justice, Room 1517, Ninth Street and Pennsylvania Avenue NW, Washington, DC 20530. A copy of the proposed Stipulation and Decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division, United States Department of Justice, at the above address. In requesting a copy, please enclose a check in the amount of \$6.10, payable to the Treasurer of the United States, to cover the costs of reproduction.

Donald A. Carr,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 89-3925 Filed 2-17-89; 8:45 am]

BILLING CODE 4410-01-M

Antitrust Division

Ecolab Inc.; Iodophors Joint Venture

Notice is hereby given that, on January 18, 1989, pursuant to Section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), Ecolab Incorporated—Iodophors Joint Venture ("Joint Venture") filed written supplemental notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in the Joint Venture membership. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the Joint Venture advised that Thatcher Company has become a member of the Joint Venture.

No other changes have been made in either the membership or planned activity of the Joint Venture.

On December 15, 1987, the Joint Venture filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice ("the Department") published a notice in the *Federal Register* pursuant to Section 6(b) of the Act on January 15, 1988, 53 FR 1074, as corrected by 53 FR 4232. On May 24, 1988, and December 13, 1988, the Joint Venture filed additional written notifications. The Department published notices in the *Federal Register* in response to these additional notifications on June 13, 1988 (53 FR 22059), and January 12, 1989 (54 FR 1256) respectively.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 89-3924 Filed 2-17-89; 8:45 am]

BILLING CODE 4410-01-M

Drug Enforcement Administration

[Docket No. 88-86]

Marc A. Weiner, D.P.M.; Revocation of Registration

On September 2, 1988, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued two Orders to Show Cause to Marc A. Weiner, D.P.M., Respondent, proposing to revoke DEA Certificates of Registration AW8180262 and AW1872402 previously issued to him at 14515 Kercheval, Detroit, Michigan, and Downriver Foot Clinic, P.C., 14640 Pardee, Taylor, Michigan, respectively. The Orders to Show Cause also proposed to deny any pending applications for renewal of the registrations. The Orders to Show Cause alleged that Respondent is not currently authorized to practice podiatry in the State of Michigan and, therefore, is not authorized to handle any controlled substances in that state. The Orders to Show Cause further alleged that Respondent falsified his 1987 renewal application and that he issued numerous controlled substance prescriptions at a time he was not authorized to handle controlled substances.

Respondent, through counsel, timely filed a request for hearing on the issues raised in the Orders to Show Cause. The matter was placed on the docket of Administrative Law Judge Francis L. Young.

On October 4, 1988, Government counsel filed a motion for summary disposition of the matter based on Respondent's lack of state authorization to handle controlled substances in Michigan. Attached to the motion, Government counsel submitted copies of

certifications from the Michigan Board of Podiatric Medicine and Surgery and the Michigan Board of Pharmacy which stated that Respondent's podiatry and controlled substance licenses lapsed in 1987 and had not been renewed. On November 8, 1988, Respondent filed an opposition to the motion for summary disposition asserting that the lapse of his podiatric license resulted from a "ministerial error."

In his opinion and recommended ruling issued on December 12, 1988, the Administrative Law Judge found that the lapse of Respondent's licenses resulted from his failure to comply with continuing medical education requirements. The Administrative Law Judge also concluded that Respondent is not currently authorized by the State of Michigan to handle controlled substances, 21 U.S.C. 824(a)(3). Therefore, he recommended that the Administrator revoke Respondent's DEA Certificates of Registration and deny any pending applications for renewal. No exceptions to the Administrative Law Judge's opinion and recommended ruling were filed.

After reviewing the entire record in this proceeding, the Administrator adopts the findings of fact made by the Administrative Law Judge and determines that Respondent's current DEA registrations must be revoked and any pending applications for renewal must be denied based upon his lack of state authorization to handle controlled substances.

The Drug Enforcement Administration cannot maintain the registration of a practitioner who is not duly authorized to handle controlled substances in the state in which he conducts his business. 21 U.S.C. 823(f) and 824(a)(3). The Administrator has consistently so held. See *Fazal Ahmad, M.D.*, Docket No. 85-46, 51 FR 9543 (1986); *Avner Kauffman, M.D.*, Docket No. 85-8, 50 FR 34208 (1985); and *Agostino Carlucci, M.D.*, Docket No. 82-20, 49 FR 33184 (1984). In the instant case, it is clear that Respondent is not currently authorized to handle controlled substances in the State of Michigan. Without appropriate state authority to handle controlled substances, Respondent cannot hold a DEA Certificate of Registration.

Since there is no dispute about the status of Respondent's state podiatry and controlled substance licenses, the Administrative Law Judge properly granted the Government's motion for summary disposition. When no question of fact remains, or when the facts are agreed, a plenary adversary administrative proceeding is not required. In such situations, Congress

did not intend for an agency to perform the meaningless task of conducting a hearing when no issues remain in dispute. See *United States v. Consolidated and Smelting Co., Ltd.*, 445 F.2d 432, 453 (9th Cir. 1971); *N.L.R.B. v. International Association of Bridge, Structural and Ornamental Ironworkers, AFL-CIO*, 549 F.2d 634 (9th Cir. 1977); *Alfred Tennyson Smarthaite, M.D.*, Docket No. 77-29, 43 FR 11873 (1978); *Philip E. Kirk, M.D.*, Docket No. 82-36, 48 FR 32887 (1983); *aff'd sub. nom. Kirk v. Mulken*, 749 F.2d 297 (6th Cir. 1984).

Therefore, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 9.100(b), the Administrator of the Drug Enforcement Administration orders that DEA Certificates of Registration AW6180262 and AW1872402, previously issued to Marc A. Weiner, D.P.M., be, and they hereby are, revoked. The Administrator further orders that any pending applications for renewal of said registrations be, and they hereby are, denied.

This order is effective February 21, 1989.

John C. Lawe,
Administrator.

Dated: February 14, 1989.

[FR Doc. 89-3859 Filed 2-17-89; 8:45 am]

BILLING CODE 4410-09-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Cancellation of Meeting of Humanities Panel

The meeting of the Humanities Panel scheduled for March 3, 1989, and published in the Federal Register on February 9, 1989, at page 6343, has been cancelled. The meeting was to review applications for the February 1989 deadline, submitted to the Humanities Projects in Libraries and Archives Program, Division of General Programs. The meeting was to be held at the National Endowment for the Humanities, 1200 Pennsylvania Avenue NW., Washington, DC, Room 430 from 9:00 a.m. to 5:30 p.m.

Stephen J. McCleary,
Advisory Committee Management Officer.

[FR Doc. 89-3929 Filed 2-17-89; 8:45 am]

BILLING CODE 7530-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Subcommittee on Severe Accidents; Meeting

The ACRS Subcommittee on Severe Accidents will hold a meeting on March 7, 1989, Room P-110, 7920 Norfolk Avenue, Bethesda, MD.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Tuesday, March 7, 1989—8:30 a.m. until 12:00 Noon

The Subcommittee will review the NRC staff's proposed Severe Accident Research Plan.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allowed therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Dean Houston (telephone 301/492-8521) between 7:30 a.m. and 4:15 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the

scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Date: February 13, 1989.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 89-3923 Filed 2-17-89; 8:45 am]

BILLING CODE 7550-01-M

Advisory Committee on Reactor Safeguards Subcommittee on Thermal Hydraulic Phenomena; Meeting

The ACRS Subcommittee on Thermal Hydraulic Phenomena will hold a meeting on March 7, 1989, Room P-110, 7920 Norfolk Avenue, Bethesda, MD.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Tuesday, March 7, 1989—12:30 p.m. until 5:00 p.m.

The Subcommittee will review the NRC staff's proposed Final Policy Statement on additional applications of leak-before-break technology.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting open to the public, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, the scheduling of sessions open to the public, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present

oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Paul Boehnert (telephone 301/492-8558) between 7:30 a.m. and 4:15 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: February 13, 1989.

Morton W. Libarkin,
Assistant Executive Director for Project Review.

[FR Doc. 89-3934 Filed 2-17-89; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 30-19244; License No. 35-19797-01 (expired), EA 89-007]

Saturn Services, Inc.; Order To Confirm Transfer of Regulated Material (Effective Immediately)

I

Saturn Wireline Services, Inc. (Saturn) previously held NRC License No. 35-19797-01 issued by the Nuclear Regulatory Commission (NRC or Commission) on June 30, 1981 and amended on May 28, 1982. This license expired on June 30, 1986, Saturn having failed to file a timely application for renewal. When in effect, the license authorized Saturn to possess sealed sources of radioactive americium-241 and cesium-137 for use in gas and oil well logging and radioactive iodine-131 in any form for use in gas and oil well tracer studies. During an inspection on January 10, 1989, the NRC learned that Mr. John Condrin of Tulsa, Oklahoma, had purchased Saturn Wireline Services, Inc., sometime in January 1987 and subsequently had renamed the company Saturn Services, Inc. (SSI). Neither Saturn Wireline Services, Inc., nor Saturn Services, Inc., currently has a valid NRC license.

II

On August 29, 1986, two months following the expiration of NRC License No. 35-19797-01, a Notice of Violation (Notice) was issued to Saturn Wireline Services, Inc., for possession of NRC-licensed material without a valid NRC license. This correspondence, which was mailed to Mr. O.C. LaMascus, then the president of Saturn, stated that Saturn was to keep licensed material in secure storage and that no additional byproduct material was to be purchased pending Saturn's obtaining a valid license. In an undated response received by NRC Region IV on September 22, 1986, Mr. LaMascus, on behalf of Saturn,

replied that Saturn's radioactive sources were in secured storage.

In correspondence received by NRC Region IV on September 3, 1986, Saturn Wireline Services, Inc., applied for a new NRC license to possess and use the same sealed sources possessed under the authority of the company's expired NRC license. A September 30, 1986 letter from the NRC's Region IV office to Saturn reiterated NRC's position that Saturn's radioactive material must remain in secure storage until a valid license was obtained.

On November 13, 1986, the NRC's Region IV Office wrote to Saturn and asked it to provide additional information in order for the NRC to continue processing the license application. On February 20, 1987, NRC's License Fee Management Branch in Bethesda, Maryland, unaware of the purchase of Saturn by John Condrin and the change of the company name to Saturn Services, Inc., wrote to Saturn and informed it that until an outstanding inspection fee of \$370 plus interest of \$37.12 was paid, the NRC was discontinuing its consideration of the application for a new license. This letter also informed Saturn that it was in violation of 10 CFR 30.36 for possessing byproduct material without a valid NRC license. Neither Saturn nor SSI responded to the February 20, 1987 letter. Based on a telephone conversation with Mr. LaMascus on August 4, 1987, NRC Region IV issued a Confirmation of Action Letter (CAL) on the same date to Saturn (addressed to Mr. LaMascus) which confirmed Saturn's commitments to (1) pay the outstanding inspection fee and submit a revised license application within 10 days of his receipt of the letter, and (2) maintain radioactive materials in Saturn's possession in locked storage until Saturn obtained a valid license. Neither Saturn nor SSI responded. No information as to Saturn's purchase by Mr. John Condrin was provided to NRC at that time.

III

On January 10, 1989, an NRC Region IV inspector visited Saturn's facility at 220 East Main Street in Hominy, Oklahoma, and determined that (1) one of Saturn's radioactive sources was not in locked storage and in fact was in use on that date, (2) Saturn had been using its radioactive sources regularly in the conduct of gas and oil well logging without a valid NRC license to possess and use such materials and in violation of Saturn's previous commitments made by Mr. LaMascus, and (3) Saturn had been purchased by Mr. John Condrin and renamed SSI. The inspection also

disclosed several other apparent violations of NRC requirements associated with Saturn's safe use of these sources. On January 11, 1989, Mr. LaMascus acknowledged that Saturn had been using these materials without a license and agreed to transfer to an authorized recipient all licensable material that was in his possession. This commitment was confirmed in a CAL issued on that date. The transfer of three sealed sources from Saturn to B&H Wireline Services, 300 E. Main Street, Hominy, Oklahoma, an NRC licensee authorized to possess these materials, was carried out on the same date. On January 13, 1989, Mr. John Condrin, President of SSI, acknowledged that SSI, Saturn's successor, would continue to not use radioactive material until notified otherwise by the NRC. This commitment was confirmed in a CAL issued on the same date.

IV

The foregoing events indicate a disregard for NRC requirements on the part of Saturn and Mr. LaMascus. In particular, the possession and use of byproduct materials without a license is prohibited by section 81 of the Atomic Energy Act of 1954, as amended, and by 10 CFR 30.3 of the Commission's regulations. In light of Saturn's apparent deliberate violation of the Atomic Energy Act of 1954, as amended, and NRC's regulations and Saturn's apparent violation of radiation safety-related requirements associated with the safe use of licensed materials, I have determined that it is necessary to issue this Order to ensure that no licensed material remains in the possession of Saturn Services, Inc., a company that does not possess a valid NRC license. Further, because of the willful nature of the violation, I have determined that this Order be immediately effective.

V

Accordingly, pursuant to sections 81, 161b, 161c, 161i, and 161o of the Atomic Energy Act of 1954, as amended, and 10 CFR Part 30, it is hereby ordered, effective immediately, that:

Saturn Services, Inc., shall certify under oath or affirmation within 10 days of the effective date of this order that all regulated radioactive material has been transferred to an authorized recipient and that no such material remains in Saturn Service's possession. The certification shall be sent to the Regional Administrator, USNRC Region IV, 611 Ryan Plaza Drive, Suite 1000, Arlington, Texas 76011.

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland, this 8th day of February 1989.

Hugh L. Thompson, Jr.,

Deputy Executive Director for Nuclear Materials Safety, Safeguards, and Operations Support.

[FR Doc. 89-3930 Filed 2-17-89; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-361 and 50-362]

**Southern California Edison Co. et al.;
Consideration of Issuance of
Amendments to Facility Operating
Licenses and Opportunity for Hearing**

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. NPF-10 and NPF-15 issued to Southern California Edison Company (SCE), San Diego Gas and Electric Company, the City of Riverside, California and the City of Anaheim, California (the licensees), for operation of San Onofre Nuclear Generating Station, Units 2 and 3 located in San Diego County, California. The request for amendments was submitted by letter dated October 24, 1988 and identified as Proposed Change PCN-252.

The proposed change would revise Technical Specification 3/4.8.1.1 "AC Sources." TS 3/4.8.1.1 requires operability of two physically independent circuits between the offsite transmission network and the onsite Class IE distribution system, and two separate and independent diesel generators. This Specification is applicable in Modes 1 through 4. The proposed change would revise the frequency of the surveillance tests performed during shutdown from at least once per 18 months to at least once per refueling interval, nominally 24 months.

Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By March 23, 1989 the licensee may file a request for a hearing with respect to issuance of the amendments to the subject facility operating licenses, and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for hearing and petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for

Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board Panel designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel will rule on the request and/or petition, and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first pre-hearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first pre-hearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendments under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with

the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room 2120 L Street NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly inform the Commission by a toll-free telephone call to Western Union at 1-(800) 325-6000 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to George W. Knighton: Petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Mr. Charles R. Kocher, Esq., Southern California Edison Company, 2244 Walnut Grove Avenue, P.O. Box 800, Rosemead, California 91770 and Orrick, Herrington and Sutcliffe, Attention: David R. Pigott, Esq., 600 Montgomery Street, San Francisco, California 94111, attorneys for the licensees.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of the factors specified in the 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

If a request for hearing is received, the Commission's staff may issue the amendment after it completes its technical review and prior to the completion of any required hearing if it publishes a further notice for public comment of its proposed finding of no significant hazards consideration in accordance with 10 CFR 50.91 and 50.92.

For further details with respect to this action, see the application for amendments which is available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC, and at the General Library, University of California at Irvine, Irvine, California 92713.

Dated at Rockville, Maryland, this 10th day of February, 1989.

For the Nuclear Regulatory Commission.
Terence L. Chan,
Acting Director Project Directorate V,
Division of Reactor Projects—III, IV, V and
Special Projects.

[FR Doc. 89-3931 Filed 2-17-89; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC-16810; File No. 812-7177]

California-Western States Life Insurance Co. et al.

February 13, 1989.

AGENCY: Securities and Exchange
Commission ("SEC").

ACTION: Notice of application for an
order under the Investment Company
Act of 1940 (the "Act").

Applicants: California-Western States
Life Insurance Company ("Cal-
Western"), Cal-Western Separate
Account A ("Account A"), Cal-Western
Fund C ("Fund C"), American General
Series Portfolio Company ("Portfolio
Company"), American General
Securities Incorporated ("AGSI") and
The Variable Annuity Marketing
Company ("VAMCO") (collectively,
"Applicants").

Relevant 1940 Act Sections and Rule:
Order requested (1) pursuant to sections
6(c) and 17(b) and Rule 17d-1, for an
exemption from section 17(a) and
approving certain transactions under
section 17(d) and Rule 17d-1 thereunder,
and (2) pursuant to section 6(c) from
sections 26(a)(2)(C) and 27(c)(2).

Summary of Application: Applicants
seek an order to permit (1) the assets of
Fund C and Account A to be combined,
(2) the simultaneous restructuring of
Account A, the surviving Account, into a
unit investment trust ("UIT") investing
in shares of Portfolio Company; (3) the
simultaneous issuance of shares of the
Quality Growth Fund of the Portfolio
Company to the Quality Growth sub-
account of Account A in exchange for
all of the assets and related liabilities of
Account A (1), (2) and (3) constituting
the "Reorganization"; (4) the
simultaneous issuance of Quality
Growth Fund shares in exchange for all
of the assets and related liabilities of
Cal-Western Separate Account B
("Account B") in connection with the
conversion of Account B from an
unregistered diversified management-
type separate account into an
unregistered UIT-type separate account
(the "SAB Conversion"); and (5) the
deduction of mortality and expense risk
charges from the assets of the surviving
Account A.

Filing Dates: The application was
filed on November 18, 1988.

Hearing or Notification of Hearing: If
no hearing is ordered, the Application
will be granted. Any interested person
may request a hearing on this
Application, or ask to be notified if a
hearing is ordered. Any requests must
be received by the SEC by 5:30 p.m., on
March 7, 1989. Request a hearing in
writing, giving the nature of your
interest, the reason for the request, and
the issues you contest. Serve the
Applicants with the request, either
personally or by mail, and also send it to
the Secretary of the SEC, along with
proof of service by affidavit, or, for
lawyers, by certificate. Request
notification of the date of a hearing by
writing to the Secretary of the SEC.

ADDRESSES: SEC, 450 Fifth Street NW.,
Washington, DC 20549. Applicants, c/o
George L. Ebling, Esq., 2020 L Street,
Sacramento, California 95814.

FOR FURTHER INFORMATION CONTACT:
Joyce M. Pickholz, Attorney (202) 727-
3046 or Clifford E. Kirsch, Special
Counsel (202) 727-2061 (Division of
Investment Management).

SUPPLEMENTARY INFORMATION:
Following is a summary of the
application; the complete application is
available for a fee from either the SEC's
Public Reference Branch in person or the
SEC's commercial copier, which may be
contacted at (800) 231-3282 (in Maryland
(301) 258-4300).

Applicant's Representations

1. Cal-Western, a wholly-owned
subsidiary of American General
Corporation ("AGC"), created Account
A and Fund C (the "Accounts"),
pursuant to the insurance laws of
California. The principal investment
objective of each Account is
preservation and long-term growth of
capital through a diversified investment
portfolio consisting primarily of common
stocks. Each Account is registered under
the Act as an open-end diversified
management investment company. The
Accounts fund benefits under certain
group and individual variable annuity
contracts (the "Contracts") issued and
administered by Cal-Western.

2. Cal-Western created Account B
pursuant to the insurance laws of
California. Account B's investment
policies and objectives are essentially
the same as those of the Accounts,
however, it is excluded from the
definition of an investment Company
pursuant to section 3(c)(11) of the Act,
and interests in Account B are exempt
from registration under the Securities
Act of 1933 ("1933 Act") pursuant to
section 3(a)(2) thereof. Because Account

B is operated by Cal-Western directly
without an intervening governing body,
Account B is not a separate applicant
under this application. Account B funds
benefits under certain group annuity
contracts (the "SAB Contracts") issued
and administered by Cal-Western and
offered in connection with corporation
pension and profit sharing plans
qualified under section 401 of the Code.

3. Portfolio Company is an open-end
diversified management investment
company registered under the Act.
Shares of Portfolio Company are
currently offered only in connection
with variable annuity contracts issued
by The Variable Life Insurance
Company ("VALIC") that are funded
through VALIC's Separate Account A, a
unit investment trust. VALIC is an
indirectly wholly-owned subsidiary of
AGC. Portfolio Company is a series fund
currently consisting of seven separate
investment portfolios ("Funds").
Portfolio Company's Quality Growth
Fund has as its primary investment
objective maximum total return over an
extended period of time from both
capital appreciation and investment
income. A secondary objective is
preservation of capital when financial,
economic and/or market conditions
indicate that a defensive strategy may
be appropriate.

4. AGSI, a wholly-owned subsidiary
of AGC, acts as principal underwriter
with respect to the Contracts. The
Contracts are sold by licensed insurance
agents and insurance brokers of Cal-
Western who are also registered
representatives of AGSI.

5. VAMCO, a wholly-owned
subsidiary of VALIC, acts without
remuneration as Portfolio Company's
agent in the distribution of Portfolio
Company's shares.

6. Subject to the approval of owners of
Contracts and participants under group
Contracts ("Contract Owners"), the
portfolio assets of Fund C will be
combined with and into Account A.
Simultaneously, Account A will be
restructured as a unit-investment trust
and all of its combined portfolio assets
will be sold to the Quality Growth Fund
of Portfolio Company in exchange for
shares of that Fund which will be issued
to a newly-created quality growth sub-
account of Account A. Cal-Western will
bear all expenses incurred in connection
with effecting the Reorganization.

7. Following the Reorganization, Cal-
Western will vote the shares of each
Fund of Portfolio Company held by
Account A and attributable to the
Contracts, in accordance with
instructions received from Contract
Owners. Shares of Portfolio Company

held by the Continuing Account that are not attributable to Contract Owners or for which instructions have not been received will be voted by Cal-Western for or against any proposition, or Cal-Western will abstain, in the same proportion as the shares as to which instructions have been received. Although the voting by the current Contract Owners will be computed somewhat differently after the Reorganization, Applicants represent that these differences will not, as a practical matter, diminish the existing voting privileges of the Contract Owners. However, the net assets of the Accounts will be part of a significantly larger asset pool. Cal-Western will vote all shares of Portfolio Company held in Separate Account B for or against any proposition, or abstain, as all other shares of Portfolio Company are voted, or abstain.

8. The SAB Conversion is to be effected on essentially the same terms as the restructuring of the Accounts. However, the SAB Conversion will not, under the laws of California or otherwise, require a vote of owners of SAB Contracts or of others participating in Account B under the SAB Contracts. Cal-Western will sell all of the portfolio assets of Account B to the Quality Growth Fund series of Portfolio Company. In exchange, shares of Quality Growth Fund will be issued to a newly-created quality growth sub-account of Account B, as converted into a unit investment trust-type separate account. Following the SAB Conversion, Account B will continue to rely on the exclusion provided by section 3(c)(11) of the 1940 Act and the exemption under section 3(a)(2) of the 1933 Act.

9. Applicants submit that the Reorganization will benefit Contract Owners by making available to them investments in any one of the Funds of Portfolio Company (subject to Code limitations) thereby enabling them to tailor their investment programs to their respective needs, preferences and strategies. Moreover, with respect to existing Contracts outstanding immediately prior to the Effective Time of the Reorganization, Cal-Western will issue an endorsement guaranteeing that the total of the advisory fees charged against any of Portfolio Company's Funds, whose shares are purchased by Account A, plus the mortality and expense risk, administrative and any other charges imposed upon the assets of the corresponding sub-accounts of Account A, will never exceed an amount that is equal to the total amount of the same charges that would have been

imposed under the Contracts had the Reorganization not occurred.

10. The Reorganization is expected to benefit the Accounts, as well as Cal-Western, by reducing costs through administrative efficiencies, economies of scale and less complex recordkeeping.

11. The sale of the portfolio assets of the Accounts in return for shares of the Quality Growth Fund of Portfolio Company will be effected in conformity with section 22(c) of the 1940 Act and Rule 22c-1 thereunder. Although Account B is not a registered separate account, the sale of its assets in exchange for Quality Growth Fund shares will be handled on the same basis, as though Account B were a registered investment company.

12. According to Applicants, the investment objectives of the Accounts, Quality Growth Fund, and Account B, are comparable; however, investment policies and restrictions differ and Portfolio Company is managed by a different investment adviser. Applicants submit that whereas the investment policies and restrictions of the Accounts, and of Account B, have remained unchanged for a number of years, those of the Quality Growth Fund are consistent with modern practices allowing greater flexibility in investment techniques and strategies.

13. The Reorganization and the SAB Conversion will not require liquidation of any assets of the Accounts or of Separate Account B because of the substantial identity of the investment objectives of the Accounts and Account B with the investment objectives of the Quality Growth Fund. Therefore, there will be no extraordinary costs, such as brokerage commissions, in effecting the sale, assignment and transfer of assets. However, because the assets will be under new management and combined with a significantly larger pool of assets, certain readjustments to portfolio assets of the Accounts and Account B may occur in the ordinary course of business, which might not otherwise have occurred. Cal-Western proposes to obtain an opinion of tax counsel, which it is believed will indicate that the transfer of assets and the combination of the Accounts will be tax-free events, and that the SAB Conversion will not result in a violation of the diversification requirements imposed on Portfolio Company by the Code. No gain or loss will be realized on the transfers or combination contemplated by the transactions. Portfolio Company will succeed to the same adjusted basis, upon any subsequent disposition of such assets, as such assets had prior to the transfers.

14. The Reorganization is consistent with authority provided in the respective Rules and Regulations of the Accounts, and Cal-Western must obtain Contract Owner approval of the Reorganization by at least the vote required under the 1940 Act for, among other things, any changes in fundamental investment policies or restrictions.

15. Contract Owners will be fully informed of the terms of the Reorganization through the proxy materials and will have an opportunity to approve or disapprove the Reorganization at a special meeting of Contract Owners.

16. Applicants represent that the terms of the proposed Reorganization are reasonable and fair, (including the consideration to be paid and received), do not involve overreaching, are consistent with the investment policies of each of the Accounts and Portfolio Company's Quality Growth Fund, and are consistent with the general purposes of the 1940 Act. Similar representatives regarding the terms of the SAB conversion are made by Cal-Western, Portfolio Company and VAMCO. Applicants also submit that the participation of each of the Accounts and Portfolio Company will be on an equal basis and will not result in advantages to any one of the Accounts or Portfolio Company to the detriment of any other party. With respect to the SAB Conversion, Applicants believe that to the extent they may be deemed to have participated in that transaction, it will not be on a basis that is less advantageous to the Accounts and Portfolio Company than it is to any other party. Each of the Accounts will be similarly affected by the transactions, the terms of which, as described in the Application, are, Applicants believe, fair and reasonable and consistent with the provisions, policies and purposes of the 1940 Act. Applicants believe that the Reorganization and the SAB Conversion will result in overall benefits to Cal-Western, the Accounts and Portfolio Company, and that no benefits will inure to any one party to the detriment of any other.

Mortality and Expense Risk Charge

17. As described in the Application, Cal-Western deducts an amount from purchase payments under the Contracts for sales and administrative expenses and a minimum death benefit. These charges vary depending on the type of contract and the aggregate amount of purchase payments made under a Contract.

18. Cal-Western deducts from the Accounts an asset charge to cover mortality and expense risk charges at an annual rate of 0.9% for mortality risks and of 0.1017% for expense risks. After the Reorganization, the risk charges that currently are deducted from the Accounts will be deducted from the assets of the surviving Account A under the respective Contracts.

19. The mortality risk assumed by Cal-Western is that annuitants may live longer than the life expectancy determined by Cal-Western. Cal-Western assumes this mortality risk by its contractual obligation to pay annuitants according to the annuity rates set forth in the Contracts, without regard to the annuitant's own longevity.

20. Cal-Western also assumes an expenses risk that deductions provided for in a Contract for sales and administrative expenses may not be enough to cover actual costs.

21. Applicants represent that the level of the mortality and expense risk charge is within the range of industry practice for comparable variable annuity contracts. Applicants state that this representation is based upon a review of publicly available information regarding products of other companies taking into consideration, in addition to the mortality and expense risk charges of the other companies, such factors as: guaranteed minimum death benefits, guaranteed annuity purchase rates; minimum initial and subsequent purchase payments; other contract charges; the manner in which charges are imposed; market sector; investment options under contracts; and availability to individual qualified and non-tax-qualified plans. Applicants will maintain at Cal-Western's principal executive office, and make available on request to the Commission or its staff, a memorandum setting forth in detail the variable annuity products analyzed and the methodology, and results of, Cal-Western's comparative review.

22. Applicants acknowledge that the sales charges under the Contracts may be insufficient to cover all costs relating to the distribution of the Contracts and that, if a profit is realized from the mortality and expense risk charge, all, or a portion of such profit may be offset by distribution expenses not reimbursed by such sales charges. In such circumstances a portion of the mortality and expense risk charge might be viewed as providing for a portion of the costs relating to distribution of the Contracts. Notwithstanding the foregoing, Cal-Western has concluded that there is a reasonable likelihood that the distribution financing arrangements with respect to the Contracts will

benefit the Accounts A and Contract Owners. Applicants will maintain at Cal-Western's principal executive office, and will make available on request to the Commission or its staff, a memorandum setting forth the basis for such conclusion.

23. Cal-Western also represents that the Account A will invest only in an underlying mutual fund that undertakes, in the event it should adopt any plan under Rule 12b-1 to finance distribution expenses, to have such plan formulated and approved by a Board of directors, a majority of the members of which are not "interested persons" of such fund within the meaning of section 2(a)(19) of the 1940 Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,
Assistant Secretary.

[FR Doc. 89-3887 Filed 2-17-89; 8:45 am]
BILLING CODE 8010-01-M

[Rel. No. IC-16812; File No. 812-7196]

The Guardian Insurance and Annuity Co., Inc., et al.

February 14, 1989.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "Act").

Applicants: The Guardian Insurance and Annuity Company, Inc. ("Guardian"), Guardian Investor Services Corporation ("GISC") and The Guardian Separate Account C ("Separate Account C" or "Account").

Relevant 1940 Act Sections: Exemption requested under section 6(c) from sections 26(a), 27(a)(1), and 27(c)(2) of the Act and Rules 6e-2(b)(1), 6e-2(b)(13), and 6e-2(c)(4) thereunder.

Summary of Application: In connection with certain Annual Premium Variable Life Insurance Contracts ("Contracts") to be issued through the Account, Applicants seek an order to the extent necessary to permit: (1) The use of the 1980 CSO Table rather than the 1958 CSO Table in calculating the cost of insurance deduction; (2) the deduction of the cost of insurance charge from the investment base; and (3) the Account to hold shares of the underlying mutual funds under an open account arrangement.

Filing Date: The application was filed on December 12, 1988 and amended on January 24, 1989 and February 7, 1989.

Hearing or Notification of Hearing: If no hearing is ordered, the application

will be granted. Any interested person may request a hearing on this application or ask to be notified if a hearing is ordered. Any request must be received by the SEC by 5:30 p.m. on March 9, 1989. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicants with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, in the case of an attorney-at-law, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

Addresses: Secretary, SEC, 450 5th Street NW., Washington, DC 20549. The Guardian Insurance & Annuity Company, Inc., 201 Park Avenue South, New York, NY 10003.

For Further Information Contact: Cindy J. Rose, Financial Analyst (202) 272-2058 or Clifford E. Kirsch, Special Counsel (202) 272-2061 (Division of Investment Management).

Supplementary Information: Following is a summary of the application; the complete application is available for a fee from the SEC's commercial copier (800) 231-3282 (in Maryland (301) 253-4300).

Applicant's Representations and Statements

1. Guardian is a stock life insurance company organized under the laws of the State of Delaware in 1970, with its principal office located in New York, New York. It is authorized to do business in 48 States and the District of Columbia. Guardian is a wholly-owned subsidiary of The Guardian Life Insurance Company of America ("Guardian Life"), a mutual life insurance company organized in the State of New York in 1860.

2. GISC is a wholly-owned subsidiary of Guardian Life and was incorporated in the State of New York in 1968. GISC provides services to Guardian and will act as the principal underwriter, or distributor, of the Contracts. GISC is registered with the Commission as a broker-dealer and is a member of the National Association of Securities Dealers, Inc. GISC is also registered with the Commission as an investment adviser.

3. Separate Account C was established by Guardian under Delaware law pursuant to a resolution of its Board of Directors adopted on August 10, 1988. Separate Account C is maintained as a unit investment trust. Assets of the Account will be used to purchase shares at net asset value

issued by the Value Line Strategic Asset Management Trust, the Value Line Centurion Fund, Inc., the Value Line U.S. Government Securities Trust, The Guardian Cash Fund, Inc., The Guardian Stock Fund, Inc., or The Guardian Bond Fund, Inc., (the "Funds"). Initially, there will be six investment divisions within the Account.

4. A Contract will provide a death benefit that is payable to the beneficiary upon the insured's death. Regardless of a Contract's investment performance, the death benefit will never be less than the "Guaranteed Insurance Account" as stated in the Contract. During the first policy month of each Contract the death benefit will equal the Guaranteed Insurance Amount. Afterwards, the death benefit may increase or decrease on each monthly anniversary, depending on a Contract's excess investment experience, but it will never decrease below the Guaranteed Insurance Amount.

5. Under the Contracts, amounts are allocated to the Account on the policy date and on each policy anniversary thereafter, regardless of when the gross premiums paid by the policyowner are received by Guardian. These amounts, which are called net annual premiums, depend on the Contract's face amount and the insured's age and sex; they do not depend on the insured's premium class. The net annual premium is defined as the gross annual premium which would be payable for an insured in the standard non-smoker premium class, excluding any premiums for optional insurance benefits that may be chosen, less certain charges which are deducted from premiums. These charges include: (1) An annual policy fee of \$50.00; (2) an administrative charge of \$5.00 per \$1,000 of the Contract's face amount which is assessed against the first premium only; (3) a sales load which will not be more than 30% of the basic premium in the first policy year. For policy years after the first, the sales load will be a constant percentage of the basic premium. For the period of time which is the lesser of 20 years or the life expectancy of the insured, the charge for sales load will never be more than 9% of the sum of the basic premiums to be paid in that time period; (4) an annual charge of 2.5% of the basic premium for State premium taxes; and (5) an annual charge of 1.5% of the basic premium for the risk that an insured may die at a time when the death benefit exceeds the benefit that would have been payable in the absence of the minimum death benefit guarantee.

6. A Contract's investment base is the amount available for investment at any

time. It represents the sum of the amounts invested in each of the Account's investment divisions plus any amount set aside for contract debt. The Contract's investment base varies daily with the performance of the investment divisions to which it is allocated.

7. A Contract's cash value may increase or decrease daily depending on the performance of the investment divisions in which the Contract participates. The cash value of a Contract will equal the investment base at the end of each policy month when the cost of insurance charge is deducted. On any date during a policy month, the cash value will equal the investment base less the total of the daily cost of insurance charges accrued since the end of the last policy month.

8. Guardian will make a daily charge for the cost of insurance in determining the cash value and will deduct it from the investment base at the end of each policy month. This charge is based on (1) the 1980 Commissioners Standard Ordinary Mortality Table ("1980 CSO Table"), male or female, as appropriate, with continuous functions, (2) the sum of the Guaranteed Insurance Amount and the Variable Insurance Amount provided during the month, and (3) the insured's age and sex. The cost of insurance rates used to calculate cost of insurance charges will not exceed the rates set forth in the 1980 CSO Table.

9. A daily mortality and expense risk charge, at an effective annual rate of .50% of the average daily value of the aggregate assets of the Account's investment divisions, is deducted from the Account to compensate Guardian for its assumption of certain mortality and expense risks incurred in connection with the Contracts.

1980 CSO Table in Calculating the Cost of Insurance Deduction

10. Applicants request an exemption from section 27(a)(1) of the Act and Rules 6e-2(b)(1), 6e-2(b)(13) and 6e-2(3)(4) thereunder, on the same terms specified in Rules 6e-2(b)(13)(i) and 6e-2(c)(4), except that life expectancy and the cost of insurance deduction for contracts issued through Separate Account C will be based upon rates derived from the 1980 CSO Table rather than from the 1958 CSO Table.

11. Applicants state that section 27(a)(1) of the Act prohibits an issuer of periodic payment plan certificates from imposing a sales load exceeding 9% of the payment to be made on such certificates. Applicants also state that Rule 6e-2(b)(13)(i) provides an exemption from section 27(a)(1) to the extent that the sales load, as defined in Rule 6e-2(c)(4), for a variable life

insurance contract does not exceed 9% of the payments to be made on the variable life insurance contract during the period equal to the lesser of 20 years or the anticipated life expectancy of the insured based on the 1958 CSO Table. Applicants further state that Rule 6e-2(c)(4), in defining sales load, contemplates the deduction of an amount for the cost of insurance based on the 1958 CSO Table and the assumed investment return specified in the contract.

12. Applicants represent that the 1980 CSO Table was adopted subsequent to the adoption of Rule 6e-2 and reflects more recent information and data about mortality. In general, insurance charges based on the 1980 CSO Table are lower than those based on the 1958 CSO Table.

13. Applicants represent that Guardian will use the 1980 CSO Table in establishing premium rates and determining reserve liabilities for the Contracts. Accordingly, Applicants submit that it is appropriate that, in determining what is deemed to be sales load under the Contracts, the deduction for the cost of insurance should be based on the 1980 CSO Table rather than the 1958 CSO Table. For the most part, basing the deductions on the 1980 CSO Table will result in lower charges and higher contract values than if such deductions were to be based upon the 1958 CSO Table.

Deduction of Cost of Insurance Charge from the Investment Base

14. Applicants believe that, on the face, the plain language of Rule 6e-2(b)(13)(iii) provides a complete exemption from sections 26(a)(2) and 27(c)(2) provided, *inter alia*, that the life insurer limits the fee for administrative services to amounts that are reasonable in relation to services rendered and expenses incurred. To avoid any question concerning full compliance with the Act and the rules thereunder, however, Applicants, while not conceding the applicability of section 26 of 27 of the Act to the cost of insurance under the Contracts, request an exemption from sections 26(a)(2) and 27(c)(2) and Rule 6e-2(b)(13)(iii) to the extent necessary to deduct the cost of insurance charge from the investment base. Applicants assert that, by this method, the Policyowner avoids having a large charge deducted as a front-end load from each premium, as is generally permitted under the Act.

Open Account Arrangement

15. Applicants state that Rule 6e-2(b)(13)(iii) provides an exemption from

the various requirements of Sections 27(c)(2), 26(a)(1) and 26(a)(2) of the Act provided that the life insurer complies, to the extent applicable, with all other provisions of Section 26 as though it were a trustee or custodian for the separate account and assuming it meets the other requirements set forth in Rule 6e-2(b)(13)(iii)(A), (B) and (C).

16. Applicants represent that they will comply with the conditions of Rule 6e-2(b)(13)(iii). However, they will not be acting as trustee or custodian under a trust indenture and will not have physical possession of the shares of the Funds, as required by section 26(a)(2)(D) of the Act. Accordingly, Applicants request exemptions from the provisions of Rule 6e-2(b)(13)(iii) and sections 27(c)(2), 26(a)(1), and 26(a)(2) of the Act to the extent necessary to permit the Account to hold shares of the Funds in uncertificated form under an open account arrangement without a trust indenture or similar instrument and without a custodian.

For the Commission by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,
Assistant Secretary.

[FR Doc. 89-3888 Filed 2-17-89; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-16811; File No. 812-7204]

Nationwide Life Insurance Company, et al.

February 13, 1989.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "1940 Act").

APPLICANTS: Nationwide Life Insurance Company (Nationwide"), Nationwide Variable Account-4 ("Variable Account-4"), and Smith Barney, Harris Upham & Co. Incorporated.

RELEVANT 1940 ACT SECTIONS:

Exemption requested under section 6(c) from sections 26(a)(2)(C) and 27(c)(2).

SUMMARY OF APPLICATIONS: Applicants seek an order to the extent necessary to permit the deduction from the assets of Variable Account-4 of a mortality and expense risk charge imposed under certain variable annuity contracts.

FILING DATE: The application was filed on December 21, 1988.

HEARING OR NOTIFICATION OF HEARING: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any request must be

received by the SEC by 5:30 p.m. on March 10, 1989. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicants with the request, either personally or by mail, and also send a copy to the Secretary of the SEC along with proof of service by affidavit or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549; Nationwide, Variable Account-4, One Nationwide Plaza, Columbus, Ohio 43216; Smith Barney, Harris Upham & Co. Incorporated, 1345 Avenue of the Americas, New York, New York 10105.

FOR FURTHER INFORMATION CONTACT: Wendell M. Faria, Staff Attorney, at (202) 272-3450, or Clifford E. Kirsch, Special Counsel, at (202) 272-2061 (Division of Investment Management, Office of Insurance Products and Legal Compliance).

SUPPLEMENTARY INFORMATION:

Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference branch in person or the SEC's commercial copier (800) 231-3282 (in Maryland (301) 258-4300).

APPLICANTS' REPRESENTATIONS

1. Nationwide is a stock life insurance company incorporated under the laws of Ohio and admitted to do business in all States and the District of Columbia. Variable Account-4, registered as a unit investment trust under the 1940 Act, was established to fund certain Individual Deferred Variable Annuity Contracts (the "Contracts") issued by Nationwide. Smith Barney, Harris Upham & Co. Incorporated is the principal underwriter for the Contracts. 2. No sales charge is deducted from purchase payments made under the Contracts. A contingent deferred sales charge (CDSC) may be assessed against contract values upon surrender. The time from receipt of each purchase payment to the time of surrender determines the amount of the CDSC. The declining CDSC is in the maximum amount of 7% of a purchase payment, declining to 0% after the 7th year.

3. An annual Contract Maintenance Charge of \$30 is deducted from the contract value, as well as an Administration Charge equal on an annual basis to .05% of the daily net asset value of Variable Account-4. The .05% Administration Charge is deducted during both the "pay-in" accumulation phase and the "pay-out" annuity phase. Nationwide relies upon Rule 26a-1 to

assess the Contract Maintenance Charge and the Administration Charge. In this regard, Nationwide will monitor the proceeds of the Administration Charge and Contract Maintenance Charge to ensure that they do not exceed expenses without profit.

4. Nationwide will assess a mortality and expense risk charge at an annual rate of 1.25% of the value of Variable Account-4. Of this amount, .80% represents mortality risks and .45% represents expense risks.

5. The expense risk Nationwide assumes is the guarantee that the annual Contract Maintenance Charge and the Administration Charge will never be increased regardless of actual expense incurred by Nationwide. The mortality risk Nationwide assumes is twofold: (1) The annuity risk of guaranteeing to make monthly payments for the lifetime of the annuitant regardless of how long the annuitant may live; and (2) the guaranteed minimum death benefit risk it assumes in connection with its promise to return, at a minimum, the contract owner's purchase payments upon death even if the investment experience in Variable Account-4 has eroded the contract owner's principal investment. The annuity risk is present in the form of annuity purchase rates that are guaranteed at issue for the life of the contract. The mortality is estimated using average mortality rates determined by the 1971 Individual Annuity Table with ages set back one year. There is also the risk that the average life expectancy of the entire population may grow longer.

6. If the mortality and expense risk charge is insufficient to cover the actual cost of the mortality and expense risk, the loss will be borne by Nationwide; conversely, if the mortality and expense risk charge proves more than sufficient, the excess will be a profit to Nationwide. Should the charge result in a profit to Nationwide, it will become part of its general Account surplus.

7. Applicants represent that the mortality and expense risk charge is within the range of industry practice for comparable annuity products and is reasonable in relation to the risks assumed under the Contracts. This representation is based upon Nationwide's analysis of publicly available information of other insurance companies of similar size and risk ratings offering similar products. Nationwide will maintain, available to the Commission, a memorandum setting forth in detail the products analyzed in the course of, and the methodology and results of, its comparative survey. Nationwide also maintains a supporting

actuarial memorandum demonstrating the reasonableness of the mortality and expense risk charge, given the risks assumed under the Contracts. This memorandum will be made available to the Commission upon request.

8. The application states that the proceeds from the imposition of the CDSC may not be sufficient to cover all explicit sales expenses. Nationwide represents that there is a reasonable likelihood that Variable Account-4's proposed distribution financing arrangements will benefit Variable Account-4 and the owners of the Contracts. The basis for this conclusion is set forth in a memorandum which will be made available to the Commission upon its request.

9. The application states that the investments of Variable Account-4 will be made in investment companies which, if they should adopt any distribution financing plan under Rule 12b-1 under the 1940 Act, will be made up of a board of trustees or directors, the majority of which will be "disinterested" as defined by the Act. Such board of directors or trustees must formulate and approve any such distribution plan.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,
Assistant Secretary.

[FR Doc. 89-3889 Filed 2-17-89; 8:45 am]
BILLING CODE 8010-01-M

[File No. 1-9819]

Issuer Delisting; Notice of Application to Withdraw from Listing and Registration; (RAC Mortgage Investment Corporation, Common Stock, \$.01 Par Value, American Stock Exchange)

February 14, 1989.

RAC Mortgage Investment Corporation ("Company"), has filed an application with the Securities and Exchange Commission pursuant to section 12(d) of the Securities Exchange Act of 1934 and Rule 12d2-2(d) promulgated thereunder, to remove the above specified security from listing and registration on the American Stock Exchange ("AMEX"). The Company's Common Stock was recently listed and registered on the New York Stock Exchange, Inc. ("NYSE") and trading in the stock on the NYSE commenced on February 8, 1989.

The reasons alleged in the application for withdrawing this security from

listing and registration include the following:

In making the decision to withdraw its common stock from listing on the AMEX, the Company considered the direct and indirect costs and expenses attendant on maintaining the dual listing of its common shares on the NYSE and the AMEX. The Company does not see any particular advantage in the dual trading of its stock and believes that dual listing would fragment the market for its common stock.

Any interested person may, on or before March 8, 1989, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,
Secretary.

[FR Doc. 89-3979 Filed 2-17-89; 8:45 am]
BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Fitness Determination of Welch Aviation, Inc.

AGENCY: Department of Transportation.
ACTION: Notice of Commuter Air Carrier Fitness Determination—Order 89-2-27, Order to Show Cause.

SUMMARY: The Department of Transportation is proposing to find Welch Aviation, Inc., fit, willing, and able to provide commuter air service under section 419(c)(2) of the Federal Aviation Act.

Responses: All interested persons wishing to respond to the Department of Transportation's tentative fitness determination should file their responses with the Air Carrier Fitness Division, P-56, Department of Transportation, 400 Seventh Street SW., Room 6401, Washington, DC 20590, and serve them on all persons listed in Attachment A to the order. Responses shall be filed no later than February 23, 1989.

FOR FURTHER INFORMATION CONTACT:
Ms. Carol A. Woods, Air Carrier Fitness Division (P-56, Room 6401), U.S. Department of Transportation, 400 Seventh Street SW., Washington, DC 20590, (202) 366-2340.

Dated: February 15, 1989.

Gregory S. Dole,
Assistant Secretary for Policy and International Affairs.

[FR Doc. 89-4053 Filed 2-17-89; 8:45 am]
BILLING CODE 4910-62-M

Federal Aviation Administration

Radio Technical Commission for Aeronautics (RTCA) Special Committee 164—Minimum Operational Performance Standards for Aircraft Audio Systems and Equipment; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I), notice is hereby given for the second meeting of RTCA Special Committee 164 on Minimum Operational Performance Standards for Aircraft Audio Systems and Equipment to be held March 8-10, 1989, in the RTCA Conference Room, One McPherson Square, 1425 K Street NW., Suite 500, Washington, DC 20005, commencing at 9:30 a.m.

The agenda for this meeting is as follows: (1) Chairman's remarks; (2) approval of first meeting's minutes, RTCA Paper No. 26-89/SC164-4; (3) technical presentations; (4) review of task assignments from last meeting; (5) review of existing document (RTCA/DO-170); (6) working group sessions; (7) assignment of tasks; (8) other business; and (9) date and place of next meeting.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street NW., Suite 500, Washington, DC 20005; (202) 682-0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on February 13, 1989.

Geoffrey R. McIntyre,
Acting Designated Officer.

[FR Doc. 89-3907 Filed 2-17-89; 8:45 am]
BILLING CODE 4910-13-M

National Highway Traffic Safety Administration

Discretionary Cooperative Agreements To Support Biomechanical Research

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Announcement of discretionary cooperative agreements to support biomechanical research.

SUMMARY: The National Highway Traffic Safety Administration (NHTSA) announces the discretionary cooperative agreement program to support research studies to evaluate the biomechanical response of human surrogates to impact and solicits applications for projects under this program.

DATE: Applications must be received on or before April 12, 1989.

ADDRESS: Applications must be submitted to the National Highway Traffic Safety Administration, Office of Contracts and Procurement (NAD-30), 400—7th Street, SW., Room 5301, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Questions relating to this cooperative agreement program should be directed to Rolf H. Eppinger, Chief, Biomechanics Division (NRD-13), National Highway Traffic Safety Administration, 400—7th Street, SW., Room 6226, Washington, DC 20590; (202) 366-4875.

SUPPLEMENTARY INFORMATION:

Background and Objectives

The National Highway Traffic Safety Administration is mandated with the responsibility for devising strategies to save lives and reduce injuries from motor vehicle crashes. The purpose of this cooperative agreement program is to promote the improvement of traffic safety for the public through the support of research studies designed to evaluate the biomechanical response of human surrogates to impact as a means of expanding the base of scientific knowledge in this field and to provide for the coordinated exchange of scientific information collected as a result of the studies conducted.

Impact trauma research employs the principles of mechanics to discover the physical response and physiological results of impacts to the human body. Generally, the teams doing the research are comprised of individuals from different disciplines: engineering, physiology, medicine, biology, and anatomy. The team studies the physical response of the body to impact by measuring and recording engineering parameters defining the event, such as force, accelerations, displacements,

strains, pressure, etc., and observing the physiological consequences in terms of physical or functional alterations to the body.

The major research materials used to stimulate the injury to the living human are human cadavers and/or anesthetized animals (hereinafter referred to as human surrogates) exposed to impact and detailed response measurement.

The focus of this cooperative research effort is to study of human surrogate response and injury to physical impacts simulating some significant aspect of automotive impact injury, i.e., head, neck, and/or torso injury produced in drivers and/or passengers, restrained by various safety devices and exposed to either a frontal, lateral, or rear impact; pedestrian trauma, etc. The specific objectives of this cooperative research effort are to: (1) Delineate the mechanisms of injury, (2) develop functional relationships between the measurable engineering parameters and the extent and severity of injury, and (3) quantify the impact response of the body in such a way as to allow the development of mechanical analogs of the human body.

NHTSA Involvement

NHTSA, Biomechanics Division, will be involved in all activities undertaken as part of the cooperative agreement program and will:

1. Provide, on an as-available basis, one professional staff person, to be designated as the Contracting Officer's Technical Representative (COTR), to participate in the planning and management of the cooperative agreement and coordinate activities between the organization and NHTSA.
2. Make available information and technical assistance from government sources, within available resources and as determined appropriate by the COTR.
3. Provide liaison with other government agencies and organizations as appropriate; and
4. Stimulate the exchange of ideas and problems among cooperative agreement recipients, and, if appropriate, NHTSA contractors and other interested parties.

Period of Support

The research effort described in this notice will be supported through the award of at least one cooperative agreement. NHTSA reserves the right to make multiple awards depending upon the merit of the applications received.

Contingent upon the availability of funds and satisfactory performance, cooperative agreement(s) will be awarded to eligible organization(s) for project periods of up to two years. No

cooperative agreement awarded as a result of this notice shall exceed \$500,000.

Eligibility Requirements

In order to be eligible to participate in this cooperative agreement program, an applicant must be an educational institution or other nonprofit research organization.

Application Procedure

Each applicant must submit one original and two copies of their application package to: Office of Contracts and Procurement (NAD-30), NHTSA, 400—7th Street, SW., Room 5301, Washington, DC 20590. Only complete application packages received on or before April 12, 1989, shall be considered. Submission of three additional copies will expedite processing; but is not required.

Application Contents

The application package must be submitted with a Standard Form 424 (rev. 4-88), which shall include the certified assurances, and provide the following:

1. A description of the research to be pursued which addresses:
 - a. The objectives, goals, and anticipated outcomes of the proposed research effort;
 - b. The method or methods that will be used;
 - c. The source of the human surrogates to be used;
 - d. The number and type of human surrogates (viz human cadavers or anesthetized animals) the applicant expects to use for this two-year research effort along with documentation (retrospective or prospective) that provides evidence that the applicant has access to the proposed quantity of experimental material.
2. The proposed program director and other key personnel identified for participation in the proposed research effort, including a description of their qualifications and their respective organizational responsibilities.
3. A description of the general, as well as specialized impact simulation, test facilities and equipment currently available or to be obtained for use in the conduct of the proposed research effort.
4. A description of the applicant's previous experience or on-going research program that is related to this proposed research effort.
5. A detailed budget for the proposed research effort, including any cost-sharing contribution proposed by the applicant as well as any additional

financial commitments made by other sources.

Review Process and Criteria

Initially, all applications will be reviewed to confirm that the applicant is an eligible recipient and to assure that the application contains all of the information required by the Application Contents section of this notice.

Each complete application from an eligible recipient will then be evaluated by a Technical Evaluation Committee. The applications will be evaluated using the following criteria.

1. The potential of the proposed research effort accomplishments to make an innovative and/or significant contribution to the base of biomechanical knowledge as it may be applied to saving lives and reducing injuries resulting from motor vehicle crashes.

2. The applicant's understanding of the purpose and unique problems resented by the research objectives of this cooperative agreement program as evidenced in the description of their proposed research effort. Specific attention shall be placed upon the applicant's stated means for obtaining the quantity of experimental material necessary to conduct the proposed research effort.

3. The technical merit of the proposed research effort, including the feasibility of the approach, planned methodology and anticipated results.

4. The adequacy of test facilities and equipment identified to accomplish the proposed research effort, including impact simulation.

5. The adequacy of the organizational plan for accomplishing the proposed research effort, including the qualifications and experience of the research team, the various disciplines represented, and the relative level of effort proposed for professional, technical, and support staff.

Terms and Conditions of the Award

1. The protection of the rights and welfare of human subjects in NHTSA-sponsored experiments is established in NHTSA Orders 700-1, 700-3, and 700-4. Any recipient must satisfy the requirements and guidelines of the NHTSA Orders 700 series prior to award of the cooperative agreement. A copy of the NHTSA Orders 700 series may be obtained from the information contact designated in this notice.

2. Reporting Requirements:

a. *Data Reports:* The dynamic and other data measured in each human surrogate impact test will be provided by the recipient(s) within four (4) weeks after the test is run. For each and every

test performed with a human surrogate, a data package shall be submitted to the COTR. For example, were a cadaver to be impacted by pendulum to the right femur and later to be impacted by pendulum to the thorax, the two (2) impacts are separate tests even though there was only one (1) human surrogate.

A data package consists of high speed film, "paper" test report, and magnetic tape complying with NHTSA Data Tape Reference Guide. NHTSA, Biomechanics Division, maintains a Biomechanical Data Base which provides information, upon request, to the public, including educational institutions and other research organizations.

To facilitate the input of data as well as the exchange of information, any recipient of a cooperative agreement awarded as a result of this notice must provide the magnetic tape in the format specified in the "NHTSA Data Tape Reference Guide," dated August, 1985, with about twenty insert pages dated December, 1985. A copy of this document may be obtained from the information contact designated in this notice.

b. *Performance Reports:* The recipient shall submit semiannual performance reports which shall be due 30 days after the reporting period and a final performance report within 90 days after the completion of the research effort. An original and two copies of each of these performance reports shall be submitted to the COTR.

3. During the effective period of the cooperative agreement(s) awarded as a result of this notice, the agreement(s) shall be subject to the general administrative requirements of OMB Circular A-110 (or the "common rule," if effected prior to award), the cost principles of OMB Circular A-21 or A-122, as applicable to the recipient, and the requirements for a drug-free workplace set forth in 49 CFR Part 29.

Issued on February 13, 1989.

Michael M. Finkelstein,
Associate Administrator for Research and Development.

[FR Doc. 89-3981 Filed 2-17-89; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: February 14, 1989.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980,

Pub. L. 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 15th and Pennsylvania Avenue NW., Washington, DC 20220.

Departmental Offices

OMB Number: New.

Form Number: TD F 90-22.39.

Type of Review: New Collection.

Title: Travel to Cuba, U.S. Department of the Treasury, Office of Foreign Assets Control, Declaration

Description: Declarations to be completed by persons traveling from the U.S. to Cuba will provide the U.S. Government information to be used in administering and enforcing economic sanctions imposed against Cuba pursuant to 31 CFR Part 515.

Respondents: Individuals or households, Businesses or other for-profit, Federal agencies or employees, Non-profit institutions, Small businesses or organizations

Estimated Number of Respondents: 26,000

Estimated Burden Hours Per

Response: 5 minutes

Frequency of Response: On occasion

Estimated Total Reporting Burden: 2,166 hours

Clearance Officer: Dale A. Morgan (202) 566-2693, Departmental Offices, Room 2409, Main Treasury Building, 15th & Pennsylvania Avenue NW., Washington, DC 20220.

OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.
[FR Doc. 89-3978 Filed 2-17-89; 8:45 am]

BILLING CODE 4810-25-M

Customs Service

[T.D. 89-28]

Recordation of Trade Name; Tune Belt

AGENCY: Customs Service, Department of the Treasury.

ACTION: Notice of recordation.

SUMMARY: On October 19, 1988, a notice of application for the recordation under section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124), of the trade name "Tune Belt" was published in the Federal Register (53 CFR 41012). The

notice advised that before final action was taken on the application, consideration would be given to any relevant data, views, or arguments submitted in writing by any person in opposition to the recordation and received not later than December 19, 1988. No responses were received in opposition to the notice.

Accordingly, as provided in § 133.14, Customs Regulations (19 CFR 113.14), the name "Tune Belt" is recorded as the trade name used by Tune Belt, Inc., a corporation organized under the laws of the State of Ohio, located at 2601 Arbor Place, Cincinnati, Ohio 45209. The trade name is used in connection with the clothing, manufactured by Kama Corporation, LTD. in Taipei, Taiwan.

"Tune Belt," is a belt with a pocket made out of nylon lined Neoprene (wet suit material) used as a radio/cassette carrier).

EFFECTIVE DATE: February 21, 1989.

FOR FURTHER INFORMATION CONTACT: Bettie Coombs, Value, Special Programs and Admissibility Branch, 1301 Constitution Avenue NW., Washington, DC 20229 (202-566-5765).

Marvin M. Amernick,
Chief, Value, Special Programs and Admissibility Branch.

February 14, 1989.

[FR Doc. 89-3951 Filed 2-17-89; 8:45 am]

BILLING CODE 4820-02-M

UNITED STATES INFORMATION AGENCY

Renewal of Telecommunications Advisory Committee

Effective February 13, 1989. The United States Information Agency announces the renewal of the Television Telecommunications Advisory Committee. The creation and functioning of this committee are considered to be in the public interest.

Dated: February 14, 1989.

Ledra L. Dildy,

Federal Register Liaison Officer.

[FR Doc. 89-3800 Filed 2-17-89; 8:45 am]

BILLING CODE 5230-01-M

Sunshine Act Meetings

Federal Register

Vol. 54, No. 33

Tuesday, February 21, 1989

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL COMMUNICATIONS COMMISSION

February 15, 1989.

FCC To Hold a Closed Commission Meeting, Wednesday, February 22, 1989

The Federal Communications Commission will hold a Closed Meeting on the subjects listed below on Wednesday, February 22, 1989, following the Open Meeting, which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, NW., Washington, DC.

Agenda, Item No., and Subject

Hearing—1—Application for Review in the Fredonia, New York AM renewal proceeding (MM Docket No. 85-02).

This item is closed to the public because it concerns Adjudicatory Matters See 47 CFR 0.603(j)).

The following persons are expected to attend:

Commissioners and their Assistants
Managing Director and members of his staff
General Counsel and members of her staff
Acting Chief, Office of Public Affairs and member of her staff

Action by the Commission February 14, 1989. Commissioners Patrick Chairman; Quello, and Dennis voting to consider this item in Closed Session.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Sarah Lawrence FCC Office of Public Affairs, telephone number (202) 632-5050.

Issued: February 15, 1989.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 89-4015 Filed 2-21-89; 11:39 am]

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FEDERAL COMMUNICATIONS COMMISSION

February 15, 1989-G.

FCC To Hold Open Commission Meeting, Wednesday, February 22, 1989

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Wednesday, February 22, 1989, which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, NW., Washington, DC.

Agenda, Item No., and Subject

Private Radio—1—Title: Trunking Standards for Equipment Operating in the 800 MHz Public Safety Bands. Summary: The Commission will consider action on the proceeding regarding trunking compatibility protocol standards for equipment operating in the 800 MHz public safety bands, (Gen. Docket No. 88-441).

Private Radio—2—Title: Amendment of Part 90 of the Commission's Rules regarding eligibility and shared use criteria for Private Land Mobile Frequencies Below 800 MHz. Summary: The Commission will consider whether to adopt a Notice of Proposed Rule Making concerning eligibility in the Business Radio Service

and direct licensing of third parties to provide communications service to eligible end users within the Part 90 service categories.

Mass Media—1—Title: Policies Regarding Interference Reduction Between AM Broadcast Stations. Summary: The Commission will consider whether to develop a formal procedure for AM licensees to reduce interstation interference and to consider certain changes in the AM processing rules to facilitate such a procedure.

Mass Media—2—Title: Amendment of Parts 73 and 76 of the Commission's Rules Relating to Program Exclusivity in the Cable and Broadcast Industries. Summary: Commission consider action on various petitions for reconsideration of its *Report and Order*, 3 FCC Rcd 5299 (1988).

Mass Media—3—Title: Policies Regarding Detrimental Effects of Proposed New Broadcast Stations on Existing Stations. Summary: The Commission will consider further action in MM Docket No. 87-68 relating to the *Carroll* doctrine.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Sarah Lawrence, Office of Public Affairs, telephone number (202) 632-5050.

Issued: February 15, 1989.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 89-4016 Filed 2-16-89; 11:39 am]

BILLING CODE 6712-01-M

Corrections

Federal Register

Vol. 54, No. 33

Tuesday, February 21, 1989

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents and volumes of the Code of Federal Regulations. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF COMMERCE

International Trade Administration

Notice of Applications for Duty-Free Entry of Scientific Instruments; Medical University of South Carolina et al.

Correction

In notice document 89-2216 beginning on page 4874 in the issue of Tuesday, January 31, 1989, make the following corrections:

1. On page 4874, in the first column, in the third complete paragraph, in the fourth line, "Electronic" should read "Electron".

2. On the same page, in the second column, in the fifth line, "Electronic" should read "Electron".

3. On the same page, in the third column, in the eighth complete paragraph, in the fifth line, "Electronic" should read "Electron".

BILLING CODE 1505-01-D

DEPARTMENT OF COMMERCE

International Trade Administration

Notice of Applications for Duty-Free Entry of Scientific Instruments; Pennsylvania State University et al.

Correction

In notice document 89-2218 beginning on page 4876 in the issue of Tuesday, January 31, 1989, make the following corrections:

1. On page 4876, in the 1st column, in the 3rd complete paragraph, in the 20th and 21st lines, "December 11, 1988" should read "August 17, 1988".

2. On page 4877, in the first column, in the first complete paragraph, in the fifth

line, "Isotope-Ration" should read "Isotope-Ratio".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Office of Hearings and Appeals

43 CFR Part 4

Department Hearings and Appeals Procedures

Correction

In rule document 89-3091 beginning on page 6483 in the issue of Friday, February 10, 1989, make the following correction:

§ 4.314 [Corrected]

On page 6486, in the third column, the section heading which reads "§ 4.315 Exhaustion of administrative remedies." should read "§ 4.314 Exhaustion of administrative remedies."

BILLING CODE 1505-01-D

**Proposed
Part 71
Federal Register**

**Tuesday
February 21, 1989**

Part II

**Department of
Transportation**

Federal Aviation Administration

14 CFR Part 71

**Proposed Establishment and Alteration of
Airport Radar Service Area; California;
Notice of Proposed Rulemaking**

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 71**

[Airspace Docket No. 88-AWA-7]

Proposed Establishment and Alteration of Airport Radar Service Area; California**AGENCY:** Federal Aviation Administration (FAA), DOT.**ACTION:** Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish an Airport Radar Service Area (ARSA) at John Wayne Airport/Orange County, Santa Ana, CA, and would adjust the lateral limits of the El Toro Marine Corps Air Station (MCAS) ARSA to accommodate the adjoining Santa Ana ARSA. John Wayne Airport/Orange County is a public airport with an operating control tower served by a Level V Radar Approach Control Facility and Limited Approach Control Facility. Establishment of this ARSA would require that pilots maintain two-way radio communication with air traffic control (ATC) while in the ARSA. Implementation of ARSA procedures at the affected locations would promote the efficient control of air traffic and reduce the risk of midair collision in terminal areas.

DATES: Comments must be received on or before April 21, 1989.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket [AGC-204], Airspace Docket No. 88-AWA-7, 800 Independence Avenue SW., Washington, DC 20591.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 918, 800 Independence Avenue SW., Washington, DC.

The informal docket may also be examined during normal business hours at the office of that Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Alton Scott, Airspace Branch (ATO-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267-9252

SUPPLEMENTARY INFORMATION: Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 88-AWA-7." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA-230, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267-3484.

Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2A which describes the application procedure.

Background

On April 22, 1982, the National Airspace Review (NAR) plan was published in the *Federal Register* (47 FR 17448). The plan encompassed a review of airspace use and procedural aspects of the ATC system. Among the main objectives of the NAR was the improvement of the ATC system by increasing efficiency and reducing complexity. In its review of terminal airspace, NAR Task Group 1-2

concluded that TRSA's should be replaced. Four types of airspace configurations were considered as replacement candidates, of which Model B, since redesignated ARSA, was recommended by a consensus.

In response, the FAA published NAR Recommendation 1-2.2.1, "Replace Terminal Radar Service Areas with Model B Airspace and Service" in Notice 83-9 (July 28, 1983; 48 FR 34286) proposing the establishment of ARSA's at the Robert Mueller Municipal Airport, Austin, TX, and the Port of Columbus International Airport, Columbus, OH. ARSA's were designated at these airports on a temporary basis by SFAR No. 45 (October 28, 1983; 48 FR 50038) in order to provide an operational confirmation of the ARSA concept for potential application on a national basis.

Following a confirmation period of more than a year, the FAA adopted the NAR recommendation and, on February 27, 1985, issued a final rule (50 FR 9252; March 6, 1985) defining an ARSA and establishing air traffic rules for operation within such an area. Concurrently, by separate rulemaking action, ARSA's were permanently established at the Austin, TX; Columbus, OH; and the Baltimore/Washington International Airports (50 FR 9250; March 6, 1985). The FAA has stated that future notices would propose ARSA's for other airports at which TRSA procedures are in effect.

Additionally, the NAR Task Group recommended that the FAA develop quantitative criteria for proposing to establish ARSA's at locations other than those which are included in the TRSA replacement program. The task group recommended that these criteria take into account, among other things, traffic mix, flow and density, airport configuration, geographical features, collision risk assessment, and ATC capabilities to provide service to users. This criteria has been developed and is being published via the FAA directives system.

The FAA has established ARSA's at 125 locations under a paced implementation plan to replace TRSA's with ARSA's. This is one of a series of notices to implement ARSA's at locations with TRSA's or locations without TRSA's which warrant implementation of an ARSA. This notice proposes ARSA designation at one of the locations identified as candidates for an ARSA in the preamble to Amendment No. 71-10 (50 FR 9252). Other candidate locations will be proposed in future notices published in the *Federal Register*.

The Current Situation at the Proposed ARSA Location

John Wayne Airport/Orange County is a public airport with an operating control tower served by a Level V Radar Approach Control Facility and a Limited Approach Control Facility. The airport operations at this airport are quite varied as to the mix of aircraft. Speeds range from the extremely slow to the maximum speed allowed under regulations with maneuverability varying from the extremely maneuverable to the slower maneuvering aircraft. Although most aircraft landing at John Wayne Airport/Orange County are sequenced with the aid of radar, airspace and operating rules are not established by regulation. Participation by pilots operating under visual flight rules (VFR) is voluntary, although pilots are urged to participate. This level of service is known as Stage II and is provided at some locations not identified as TRSA's. The NAR Task Group recommended and the FAA adopted the establishment of numerical criteria to allow airports having particular safety, traffic, and other needs to become ARSA candidates regardless of whether such airports were encompassed by TRSA's. John Wayne Airport/Orange County is in this category of airports.

John Wayne Airport/Orange County is rapidly becoming more heavily used by numerous air carriers and air taxis. The number of passengers boarded annually far surpasses the number necessary for ARSA candidacy.

The NAR Task Group stated that, due to the different levels of service offered in terminal areas such as John Wayne Airport/Orange County, users are not always sure of what restrictions or privileges exist, or how to cope with them. Stage II services offered at John Wayne Airport/Orange County include traffic advisories and sequencing to the runway but do not include conflict resolution in the terminal airspace. Participation in this program is strictly voluntary. The only service available outside the airport traffic area (ATA) is separation for instrument flight rules (IFR) traffic and VFR traffic advisories as an additional service. Some believe that the voluntary nature of Stage II at airports with moderate traffic levels does not adequately address the problems associated with nonparticipating aircraft operating in relative proximity to the airport and its associated approach and departure courses. There is strong advocacy among user organizations that, within a given standard airspace designation, a terminal radar facility should provide all

pilots with the same level of service, and in the same manner, to the extent that this is feasible.

Certain provisions of FAR § 91.87 add to the problem identified by the task group. For example, aircraft operating under VFR to or from a satellite airport and within the ATA of the primary airport are excluded from the two-way radio communications requirement of § 91.87. This condition is acceptable until the volume and density of traffic at the primary airport dictates further action.

The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) that would adjust the lateral limits of the El Toro MCAS ARSA to accommodate the adjoining Santa Ana ARSA and establish an ARSA at John Wayne Airport/Orange County, Santa Ana, CA. This location is a public airport with an operating control tower served by a Level V Radar Approach Control Facility and a Limited Approach Control Facility.

The FAA has published a final rule (50 FR 9252; March 6, 1985) which defines ARSA and prescribes operating rules for aircraft, ultralight vehicles, and parachute jump operations in airspace designated as an ARSA.

The final rule provides in part that all aircraft arriving at any airport in an ARSA or flying through an ARSA, prior to entering the ARSA, must: (1) Establish two-way radio communications with the ATC facility having jurisdiction over the area; and (2) while in the ARSA, maintain two-way radio communications with that ATC facility. For aircraft departing from the primary airport within the ARSA, two-way radio communications must be maintained with the ATC facility having jurisdiction over the area. For aircraft departing a satellite airport within the ARSA, two-way radio communications must be established as soon as practicable after takeoff with the ATC facility having jurisdiction over the area, and thereafter maintained while operating within the ARSA.

All aircraft operating within an ARSA are required to comply with all ATC clearances and instructions and any FAA arrival or departure traffic pattern for the airport of intended operation. However, the rule permits ATC to authorize appropriate deviations from any of the operating requirements of the rule when safety considerations justify the deviation or more efficient utilization of the airspace can be attained. Ultralight vehicle operations and parachute jumps in an ARSA may

only be conducted under the terms of an ATC authorization.

The FAA adopted the NAR Task Group recommendation that each ARSA be of the same airspace configuration insofar as is practicable. The standard ARSA consists of airspace within 5 nautical miles of the primary airport extending from the surface to an altitude of 4,000 feet above that airport's elevation, and that airspace between 5 and 10 nautical miles from the primary airport from 1,200 feet above the surface to an altitude of 4,000 feet above that airport's elevation. Proposed deviations from this standard have been necessary at some airports due to adjacent regulatory airspace, international boundaries, topography, or unusual operational requirements.

This proposal deviates from the standard ARSA ceiling southwest of John Wayne Airport/Orange County. As a result of user comments and recommendations along with documented incident reports, the increasing operations in this area above 4,000 feet have mandated raising the ceiling by 1,000 feet. This would provide for a safer transition of aircraft landing at John Wayne Airport/Orange County while not designating an unnecessary amount of airspace.

Definitions, operating requirements, and specific airspace designations applicable to ARSA's may be found in §§ 71.14 and 71.501 of Part 71 and §§ 91.1 and 91.88 of Part 91 of the Federal Aviation Regulations (14 CFR Parts 71, 91).

For the reasons discussed under "Regulatory Evaluation," the FAA has determined that this proposed regulation (1) is not a "major rule" under Executive Order 12291; and (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Regulatory Evaluation

The FAA conducted a Regulatory Evaluation of the proposed establishment of an ARSA at John Wayne Airport/Orange County. The major findings of that evaluation are summarized below, and the full evaluation is available in the regulatory docket.

a. Costs

Costs which potentially could result from the ARSA program fall into the following categories:

(1) Air traffic controller staffing, controller training, and facility equipment costs incurred by the FAA.

(2) Costs associated with the revision of charts, notification of the public, and pilot education.

(3) Additional operating costs for circumnavigating or flying over the ARSA.

(4) Potential delay costs resulting from operations within an ARSA.

(5) The need for some operators to purchase radio transceivers.

(6) Miscellaneous costs.

It has been the FAA's experience, however, that these potential costs do not materialize to any appreciable degree, and when they do occur, they are transitional, relatively low in magnitude, or attributable to specific implementation problems that have been experienced at a very small minority of ARSA sites. The reasons for these conclusions are presented below.

Participation in Stage II at John Wayne Airport/Orange County is already quite high, and the separation standards permitted in ARSA's will allow controllers to absorb the slight increase in participating traffic by handling all traffic more efficiently. Thus, the FAA expects that the ARSA program can be implemented without requiring additional controller personnel above currently authorized staffing levels. Further, because controller training will be conducted during normal working hours, and John Wayne Airport/Orange County already operates the necessary radar equipment, the FAA does not expect to incur any appreciable implementation costs. Essentially, the FAA is modifying its terminal radar procedures in the ARSA program in a manner that will make more efficient use of existing resources.

No additional costs are expected to be incurred because of the need to revise sectional charts to incorporate the new ARSA airspace boundaries. Changes of this nature are routinely made during charting cycles, and the planned effective dates for newly established ARSA's are scheduled to coincide with the regular 6-month chart publication intervals.

Much of the need to notify the public and educate pilots about ARSA operations will be met as a part of this rulemaking proceeding. The informal public meeting being held at each location where an ARSA is proposed provides pilots with the best opportunity to learn both how an ARSA works and how it will affect their local operations. Because the expenses associated with these public meetings will be incurred regardless of whether or not an ARSA is ultimately established at any given site, they are more appropriately considered sunken costs attributable to the rulemaking process rather than costs of

the ARSA program. Once the decision has been made to establish an ARSA through a final rule issued in this proceeding, however, any public information costs which follow are strictly attributable to the ARSA program. The FAA expects to distribute a Letter to Airmen to all pilots residing within 50 miles of each ARSA site explaining the operation and configuration of the ARSA that is being adopted. The FAA has also issued an Advisory Circular on ARSA's. The combined Letter to Airmen and prorated Advisory Circular costs for the airport at which an ARSA is being proposed in this notice is estimated to be about \$450. This cost will be incurred only once upon the initial establishment of this ARSA.

Information on ARSA's following implementation of the program will also be disseminated at aviation safety seminars conducted throughout the country by various district offices. These seminars are provided regularly by the FAA to discuss a variety of aviation safety issues; therefore, they will not involve additional costs strictly as a result of the ARSA program.

Additionally, no significant costs are expected to be incurred as a result of the follow-on user meetings that will be held at each site following implementation of the ARSA to allow users to provide feedback to the FAA on local ARSA operations. These meetings are being held at public or other facilities which are being provided free of charge or at nominal cost. Further, because these meetings are being conducted by local FAA facility personnel, no travel, per diem, or overtime costs will be incurred by regional or headquarters personnel.

The FAA anticipates that some pilots who currently transit the terminal area without establishing radio communications or participating in radar services may choose to circumnavigate the mandatory participation airspace of an ARSA rather than participate. Some minor delay costs will be incurred by these pilots because of the additional aircraft variable operating cost and lost crew and passenger time resulting from the deviation. Other pilots may elect to overfly the ARSA, or transit below the 1,200 feet above ground level (AGL) floor between the 5- and 10-nautical-mile rings. Although this will not result in any appreciable delay, a small additional fuel burn will result from the climb portion of the altitude adjustment (which will be offset somewhat by the descent).

The FAA recognizes that the potential exists for delays to develop at some locations following the establishment of

an ARSA. The additional traffic that the radar facilities will be handling as a result of the mandatory participation requirement may, in some instances, result in minor delays to aircraft operations. The FAA does not expect such delay to be appreciable. The FAA expects that the flexibility afforded controllers in handling traffic as a result of the separation standards allowed in an ARSA will keep delay problems to a minimum. Those delays that do occur will be transitional in nature, diminishing as facilities gain operating experience with ARSA's and learn how to tailor procedures and allocate resources to take fullest advantage of the efficiencies permitted by ARSA's. This has been the experience at the three locations where ARSA's have been in effect for the longest period of time; it is also the trend at most of the locations that have been designated more recently.

The FAA does not expect that any operators will find it necessary to install radio transceivers as a result of establishing the ARSA proposed in this notice. Aircraft operating to and from primary airports already are required to have two-way radio communications capability because of existing airport traffic areas; therefore, these operators will not incur any additional costs as a result of the proposed ARSA's. Further, the FAA has made an effort to minimize these potential costs throughout the ARSA program by providing airspace exclusions, or cutouts, for satellite airports located within 5 nautical miles of the ARSA center where the ARSA would otherwise have extended down to the surface. Procedural agreements between the local ATC facility and the affected airports have also been used to avoid radio installation costs. Most non-radio equipped (NORDO) aircraft in the vicinity of John Wayne Airport/Orange County are located outside of the 5-nautical-mile ring and therefore will not be affected by the mandatory participation requirements.

At some proposed ARSA locations, special situations might exist where establishment of an ARSA could impose certain costs on users of that airspace. However, exclusions, cutouts, and special procedures have been used extensively throughout the ARSA program to alleviate adverse impacts on local fixed base and airport operators. Similarly, the FAA has eliminated potential adverse impacts on soaring, ballooning, parachuting, ultralight and banner towing activities, as well as on existing flight training practice areas, by developing special procedures to accommodate these activities through

local agreements between ATC facilities and the affected organizations. For these reasons, the FAA does not expect that any such adverse impacts will occur at the candidate ARSA site proposed in this notice.

The adjustment of the El Toro MCAS ARSA will not result in any additional cost. The proximity of the John Wayne Airport/Orange County to the El Toro MCAS necessitates the overlapping of the 5- and 10-nautical-mile rings of each ARSA. The meshing of these two rings constitutes the modification to the El Toro MCAS ARSA; thus, there are no costs associated with the modification.

b. Benefits

Much of the benefit that will result from ARSA's is nonquantifiable and attributable to simplification and standardization of ARSA configurations and procedures. Further, once experience is gained in ARSA operations, the flexibility allowed air traffic controllers in handling traffic within an ARSA will enable them to move traffic as efficiently as at present but with increased safety.

Some of the benefits of the ARSA cannot be specifically attributed to individual candidate airports, but rather will result from the overall improvements in terminal area ATC procedures realized as ARSA's are implemented throughout the country. ARSA's have the potential of reducing both near and actual midair collisions at the airports where they are established. Based upon the experience at the Austin and Columbus ARSA confirmation sites, the FAA estimates that near midair collisions may be reduced by approximately 35 to 40 percent. Further, the FAA estimates that implementation of the ARSA program nationally may prevent approximately one midair collision every 1 to 2 years throughout the United States. The quantifiable benefits of preventing a midair collision can range from less than \$100,000, due to the prevention of a minor nonfatal accident between general aviation aircraft, to \$300 million or more, due to the prevention of a midair collision involving a large air carrier aircraft resulting in numerous fatalities. Establishment of an ARSA at the site proposed in this notice will contribute to these improvements in safety.

c. Comparison of Costs and Benefits

A direct comparison of the costs and benefits of this proposal is difficult for a number of reasons. Many of the benefits of the rule are nonquantifiable, and it is difficult to specifically attribute the standardization benefits, as well as the

safety benefits, to individual candidate ARSA sites.

The FAA expects that any adjustment problems that may be experienced at new ARSA locations will only be temporary, and that once established, the ARSA program will result in efficient terminal area operations at those airports where ARSA's are established. This has been the experience at the vast majority of ARSA sites that have already been implemented. In addition, establishment of this proposed ARSA will contribute to a reduction in near and actual midair collisions. For these reasons, the FAA expects that the establishment of the ARSA proposed in this notice will produce long term, ongoing benefits that will far exceed costs, which are essentially transitional in nature.

International Trade Impact Analysis

This proposed regulation will only affect terminal airspace operating procedures at selected airports within the United States. As such, it will have no effect on the sale of foreign aviation products or services in the United States, nor will it affect the sale of United States aviation products or services in foreign countries.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily and disproportionately burdened by government regulations. Small entities are independently owned and operated small businesses and small not-for-profit organizations. The RFA requires agencies to review rules that may have a significant economic impact on a substantial number of small entities.

The small entities that potentially could be affected by implementation of the ARSA program include the fixed-base operators, flight schools, agricultural operators and other small aviation businesses located at satellite airports within 5 nautical miles of the ARSA Center. If the mandatory participation requirement were to extend down to the surface at these airports, where under current regulations participation in radar services and radio communication with ATC is voluntary, operations at these airports (inside the core) might be altered, and some business could be lost to airports outside of the ARSA core. The FAA has proposed to exclude many satellite airports located within 5 nautical miles of the primary airport at candidate ARSA sites to avoid adversely impacting their operations and to simplify the coordination of ATC

responsibilities between the primary and satellite airports. In some cases, the same purposes will be achieved through Letters of Agreement between ATC and the affected airports that establish special procedures for operating to and from these airports. In this manner, the FAA expects to eliminate any adverse impact on the operations of small satellite airports that potentially could result from the ARSA program. Similarly, the FAA expects to eliminate potentially adverse impacts on soaring, ballooning, parachuting, ultralight, and banner towing activities, as well as on existing flight training practice areas, by developing special procedures that will accommodate these activities through local agreements between ATC facilities and the affected organizations. The FAA has utilized such arrangements extensively in implementing the ARSA's that have been established to date.

The FAA expects that any delay problems that may initially develop following the implementation of an ARSA will be transitory. Furthermore, because the airports that will be affected by the ARSA program represent only a small proportion of all the public use airports in operation within the United States, small entities of any type that use aircraft in the course of their business will not be adversely impacted.

For these reasons, the FAA certifies that the proposed regulation, if adopted, will not result in a significant economic impact on a substantial number of small entities, and a regulatory flexibility analysis is not required under the terms of the RFA.

Federalism Implications

This proposed regulation will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, preparation of a Federalism assessment is not warranted.

For the reasons discussed above, the FAA has determined that this proposed regulation (1) is not a "major rule" under Executive Order 12291; and (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

List of Subjects in 14 CFR Part 71

Aviation safety, Airport radar service areas.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation

Administration proposes to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.501 [Amended]

2. Section 71.501 is amended as follows:

Santa Ana, CA [New]

That airspace extending upward from the surface to and including 4,400 feet MSL within a 5-mile radius of the John Wayne Airport/Orange County (lat. 33°40'32" N, long. 117°52'02" W.) excluding that airspace east of a line between the points where the 5-mile arc of John Wayne Airport/Orange County intercepts the 5-mile arc of El Toro MCAS (lat. 33°40'34" N., long. 117°43'49" W.); and that airspace extending upward from 2,500 feet MSL to and including 4,400 feet MSL within a 10-mile radius of the John Wayne Airport/Orange County, west of a line from the point where the 5-mile arc of John Wayne Airport/Orange County intercepts the 5-mile arc of El Toro MCAS, to the point where the 10-mile arc of John Wayne Airport/Orange County intercepts the 10-mile arc of El Toro MCAS clockwise to the 175° bearing from John Wayne Airport/Orange County; and that airspace extending upward from 1,500 feet MSL to and including 4,400 feet MSL within a 10-mile radius of John Wayne Airport/Orange County from the 175°

bearing clockwise from the 201° bearing from John Wayne Airport/Orange County; and that airspace extending upward from 3,500 feet MSL to and including 5,400 feet MSL within a 10-mile radius of John Wayne Airport/Orange County from the 201° bearing from the airport to the shoreline, excluding that airspace west of a line from the 351° bearing from John Wayne Airport/Orange County to the 251° bearing from John Wayne-Orange Airport; and that airspace extending upward from 2,500 feet MSL to and including 5,400 feet MSL from the shoreline to the San Diego Freeway (I-405), excluding that airspace west of a line from the 351° bearing from John Wayne Airport/Orange County to the 251° bearing from John Wayne Airport/Orange County; and that airspace extending upward from 2,500 feet MSL to and including 4,400 feet MSL within a 10-mile radius of John Wayne Airport/Orange County from the San Diego Freeway clockwise to the 360° bearing from the John Wayne Airport/Orange County, excluding that airspace west of a line from the 351° bearing from John Wayne Airport/Orange County to the 251° bearing from John Wayne Airport/Orange County; and that airspace extending upward from 2,000 feet MSL to and including 4,400 feet MSL within a 10-mile radius of John Wayne Airport/Orange County from the 360° bearing from the John Wayne Airport/Orange County clockwise to a line from the point where the 5-mile arc of John Wayne Airport/Orange County intercepts the 5-mile arc of El Toro MCAS to the point where the 10-mile arc of John Wayne Airport/Orange County intercepts the 10-mile arc of El Toro MCAS. This airport radar service area is effective during the specific days and hours of operation of the Orange County Tower and Approach Control as established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

El Toro MCAS, CA [Revised]

That airspace extending upward from the surface to and including 4,400 feet MSL within a 5-mile radius of the El Toro MCAS (lat. 33°40'34" N., long. 117°43'49" W.) excluding that airspace west of a line between the points where the 5-mile arc of El Toro MCAS intercepts the 5-mile arc of John Wayne Airport/Orange County (lat. 33°40'32" N., long. 117°52'02" W.); and that airspace extending upward from 2,500 feet MSL to and including 4,400 feet MSL within a 10-mile radius of the El Toro MCAS from a line from the point where the 5-mile arc of El Toro MCAS intercepts the 5-mile arc of John Wayne Airport/Orange County to the point where the 10-mile arc of El Toro MCAS intercepts the 10-mile arc of John Wayne Airport/Orange County clockwise to the 005° bearing from the El Toro MCAS, and that airspace from 2,500 feet MSL to and including 4,400 feet MSL within a 10-mile radius of the El Toro MCAS between the 104° bearing from the El Toro MCAS clockwise to a line from the point where the 5-mile arc of El Toro MCAS intercepts the 5-mile arc of John Wayne Airport/Orange County to the point where the 10-mile arc of El Toro MCAS intercepts the 10-mile arc of the John Wayne Airport/Orange County. This airport radar service area is effective during the specific days and hours of operation of the El Toro Tower as established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

Issued in Washington, DC, on February 10, 1989.

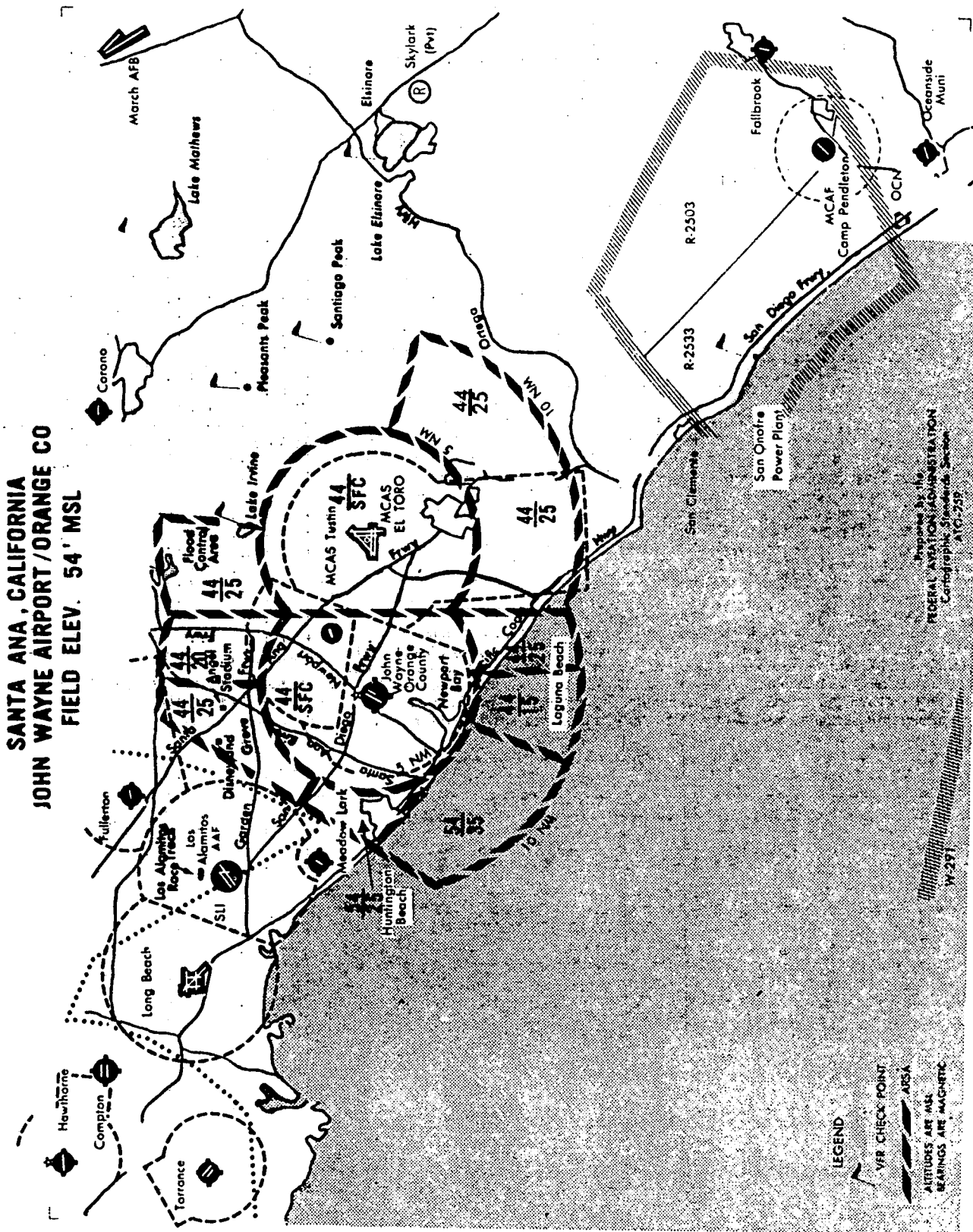
Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

BILLING CODE 4910-13-M

AIRPORT RADAR SERVICE AREA
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(NOT TO BE USED FOR NAVIGATION)



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Cartographic Standards Section
AFM 75B

[FR Doc. 89-3906 Filed 2-17-89; 8:45 am]
BILLING CODE 4910-13-C

**Tuesday
February 21, 1989**

Part III

**Department of Defense
General Services
Administration**

**National Aeronautics and
Space Administration**

48 CFR Part 52

**Federal Acquisition Regulation (FAR);
Evaluation of Multiple Awards; Proposed
Rule**

DEPARTMENT OF DEFENSE**GENERAL SERVICES
ADMINISTRATION****NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION****48 CFR Part 52****Federal Acquisition Regulation (FAR);
Evaluation of Multiple Awards**

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulatory Council are considering changes to the provisions at 52.214-22 and 52.215-34 to reflect a new amount for evaluating proposals to determine if a multiple award would be economically advantageous to the Government. The amount is increased for evaluation purposes from \$250 to \$500.

DATE: Comments should be submitted to the FAR Secretariat at the address shown below on or before April 24, 1989 to be considered in the formulation of a final rule.

ADDRESS: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets NW., Room 4041, Washington, DC 20405.

Please cite FAR Case 89-06 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Margaret A. Willis, FAR Secretariat,

Room 4041, GS Building, Washington, DC 20405, (202) 523-4755.

SUPPLEMENTARY INFORMATION:**A. Regulatory Flexibility Act**

It is anticipated that the proposed revisions to FAR 52.214-22 and 52.215-34 will have an economic impact on small businesses that want to contract with the Government, when the contracting officer determines that multiple awards might be made, because by so doing, it is economically advantageous to the Government. It is not feasible to estimate the number of small entities to which this rule will apply because the number of small businesses that would participate in these acquisitions is unknown. An Initial Regulatory Flexibility Analysis (IRFA) has been prepared and will be provided to the Chief Counsel for Advocacy for the Small Business Administration. A copy of the IRFA may be obtained from the FAR Secretariat, Attn: Margaret A. Willis, Room 4041, GS Bldg., 18th & F Streets NW., Washington, DC 20405. Comments from small entities concerning the affected FAR subsection will also be considered in accordance with section 610 of the Act.

B. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes do not impose recordkeeping information collection requirements or collection of information from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501, et seq.

List of Subjects in 48 CFR Part 52

Government procurement.

Dated: February 10, 1989.

Harry S. Rosinski,

Acting Director, Office of Federal Acquisition and Regulatory Policy.

Therefore, it is proposed that 48 CFR Part 52 be amended as set forth below:

**PART 52—SOLICITATION
PROVISIONS AND CONTRACT
CLAUSES**

1. The authority citation for 48 CFR Part 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. Chapter 137; and 42 U.S.C. 2473(c).

52.214-22 [Amended]

2. Section 52-214-22 is amended in the introductory text by inserting a colon following the word "provision" and removing the remainder of the paragraph; by removing in the title of the provision the date "(APR 1984)" and inserting in its place "(FEB 1989)"; by removing in the second sentence of the provision the figure "\$250" and inserting in its place "\$500"; and by removing the derivation line following "(End of provision)".

52.215-34 [Amended]

3. Section 52.215-34 is amended by removing in the title of the provision the date "(MAY 1988)" and inserting in its place "(FEB 1989)"; and by removing in the second sentence of the provision the figure "\$250" and inserting in its place "\$500".

[FR Doc. 89-3922 Filed 2-17-89; 8:45 am]

BILLING CODE 6820-61-M

**Tuesday
February 21, 1989**

Part IV

**Department of
Health and Human
Services**

Food and Drug Administration

**E.I. Du Pont De Nemours and Co.; Filing
of Food Additive Petition; Notice**

**DEPARTMENT OF HEALTH AND
HUMAN SERVICES****Food and Drug Administration****[Docket No. 89F-0031]****E.I. du Pont de Nemours & Co.; Filing
of Food Additive Petition****AGENCY:** Food and Drug Administration.**ACTION:** Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that E.I. du Pont de Nemours and Co. Has filed a petition proposing that the food additive regulations be amended to provide for the safe use of a fluorocarbon resin, manufactured by the reaction of tetrafluoroethylene and perfluoro(4-methyl-3, 6-dioxo-7-octene-1-sulfonyl fluoride), and followed by hydrolysis of the sulfonyl fluoride group

to sulfonic acid, for use as a membrane to process food.

FOR FURTHER INFORMATION CONTACT:

Edward J. Machuga, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 9B4123) has been filed by E.I. du Pont de Nemours and Co., Wilmington, DE 19898, proposing that Part 173—Secondary Direct Food Additives Permitted in Food for Human Consumption (21 CFR Part 173) of the food additive regulations be amended to provide for the safe use of a fluorocarbon resin, manufactured by the reaction of tetrafluoroethylene and

perfluoro(4-methyl-3, 6-dioxo-7-octene-1-sulfonyl fluoride), and followed by hydrolysis of the sulfonyl fluoride group to sulfonic acid, for use as a membrane to process food.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: February 13, 1989.

Fred R. Shank,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 89-3869 Filed 2-17-89; 8:45 am]

BILLING CODE 4160-01-M

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Tuesday, February 21, 1989

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LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last List February 10, 1989

CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

New units issued during the week are announced on the back cover of the daily **Federal Register** as they become available.

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

The annual rate for subscription to all revised volumes is \$620.00 domestic, \$155.00 additional for foreign mailing.

Order from Superintendent of Documents, Government Printing Office, Washington, DC 20402. Charge orders (VISA, MasterCard, or GPO Deposit Account) may be telephoned to the GPO order desk at (202) 783-3238 from 8:00 a.m. to 4:00 p.m. eastern time, Monday—Friday (except holidays).

Title	Price	Revision Date
1, 2 (2 Reserved)	\$10.00	Jan. 1, 1988
3 (1987 Compilation and Parts 100 and 101)	11.00	Jan. 1, 1988
4	14.00	Jan. 1, 1988
5 Parts:		
1-699	14.00	Jan. 1, 1988
700-1199	15.00	Jan. 1, 1988
1200-End, 6 (6 Reserved)	11.00	Jan. 1, 1988
7 Parts:		
0-26	15.00	Jan. 1, 1988
27-45	11.00	Jan. 1, 1988
46-51	16.00	Jan. 1, 1988
*52	23.00	Jan. 1, 1988
53-209	18.00	Jan. 1, 1988
210-299	22.00	Jan. 1, 1988
300-399	11.00	Jan. 1, 1988
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1000-1059	15.00	Jan. 1, 1988
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1940-1949	21.00	Jan. 1, 1988
1950-1999	18.00	Jan. 1, 1988
2000-End	6.50	Jan. 1, 1988
8	11.00	Jan. 1, 1988
9 Parts:		
1-199	19.00	Jan. 1, 1988
200-End	17.00	Jan. 1, 1988
10 Parts:		
0-50	18.00	Jan. 1, 1988
51-199	14.00	Jan. 1, 1988
*200-399	13.00	Jan. 1, 1987
400-499	13.00	Jan. 1, 1988
500-End	24.00	Jan. 1, 1988
11	10.00	July 1, 1988
12 Parts:		
1-199	11.00	Jan. 1, 1988
200-219	10.00	Jan. 1, 1988
220-299	14.00	Jan. 1, 1988
300-499	13.00	Jan. 1, 1988
500-599	18.00	Jan. 1, 1988
600-End	12.00	Jan. 1, 1988
13	20.00	Jan. 1, 1988
14 Parts:		
1-59	21.00	Jan. 1, 1988
60-139	19.00	Jan. 1, 1988

Title	Price	Revision Date
140-199	9.50	Jan. 1, 1988
200-1199	20.00	Jan. 1, 1988
1200-End	12.00	Jan. 1, 1988
15 Parts:		
0-299	10.00	Jan. 1, 1988
300-399	20.00	Jan. 1, 1988
400-End	14.00	Jan. 1, 1988
16 Parts:		
0-149	12.00	Jan. 1, 1988
150-999	13.00	Jan. 1, 1988
1000-End	19.00	Jan. 1, 1988
17 Parts:		
1-199	14.00	Apr. 1, 1988
200-239	14.00	Apr. 1, 1988
240-End	21.00	Apr. 1, 1988
18 Parts:		
1-149	15.00	Apr. 1, 1988
150-279	12.00	Apr. 1, 1988
280-399	13.00	Apr. 1, 1988
400-End	9.00	Apr. 1, 1988
19 Parts:		
1-199	27.00	Apr. 1, 1988
200-End	5.50	Apr. 1, 1988
20 Parts:		
1-399	12.00	Apr. 1, 1988
400-499	23.00	Apr. 1, 1988
500-End	25.00	Apr. 1, 1988
21 Parts:		
1-99	12.00	Apr. 1, 1988
100-169	14.00	Apr. 1, 1988
170-199	16.00	Apr. 1, 1988
200-299	5.00	Apr. 1, 1988
300-499	26.00	Apr. 1, 1988
500-599	20.00	Apr. 1, 1988
600-799	7.50	Apr. 1, 1988
800-1299	16.00	Apr. 1, 1988
1300-End	6.00	Apr. 1, 1988
22 Parts:		
1-299	20.00	Apr. 1, 1988
300-End	13.00	Apr. 1, 1988
23	16.00	Apr. 1, 1988
24 Parts:		
0-199	15.00	Apr. 1, 1988
200-499	26.00	Apr. 1, 1988
500-699	9.50	Apr. 1, 1988
700-1699	19.00	Apr. 1, 1988
1700-End	15.00	Apr. 1, 1988
25	24.00	Apr. 1, 1988
26 Parts:		
§§ 1.0-1-1.60	13.00	Apr. 1, 1988
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300-499	15.00	Apr. 1, 1988
500-599	8.00	Apr. 1, 1980
600-End	6.00	Apr. 1, 1988
27 Parts:		
1-199	23.00	Apr. 1, 1988
200-End	13.00	Apr. 1, 1988
28	25.00	July 1, 1988

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29 Parts:			42 Parts:		
0-99.....	17.00	July 1, 1988	1-60.....	15.00	Oct. 1, 1988
100-499.....	6.50	July 1, 1988	61-399.....	5.50	Oct. 1, 1988
500-899.....	24.00	July 1, 1988	400-429.....	21.00	Oct. 1, 1987
900-1899.....	11.00	July 1, 1988	430-End.....	14.00	Oct. 1, 1987
1900-1910.....	29.00	July 1, 1988	43 Parts:		
1911-1925.....	8.50	July 1, 1988	1-999.....	15.00	Oct. 1, 1987
1926.....	10.00	July 1, 1988	1000-3999.....	24.00	Oct. 1, 1987
1927-End.....	23.00	July 1, 1987	4000-End.....	11.00	Oct. 1, 1987
30 Parts:			44	18.00	Oct. 1, 1987
0-199.....	20.00	July 1, 1988	45 Parts:		
200-699.....	12.00	July 1, 1988	1-199.....	14.00	Oct. 1, 1987
700-End.....	18.00	July 1, 1988	200-499.....	9.00	Oct. 1, 1987
31 Parts:			500-1199.....	18.00	Oct. 1, 1987
0-199.....	13.00	July 1, 1988	1200-End.....	14.00	Oct. 1, 1987
200-End.....	17.00	July 1, 1988	46 Parts:		
32 Parts:			1-40.....	13.00	Oct. 1, 1987
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33 Parts:			0-19.....	17.00	Oct. 1, 1987
1-199.....	27.00	July 1, 1988	20-39.....	21.00	Oct. 1, 1987
200-End.....	19.00	July 1, 1988	*40-69.....	9.00	Oct. 1, 1988
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² No amendments to this volume were promulgated during the period Jan. 1, 1988 to Dec. 31, 1988. The CFR volume issued January 1, 1988, should be retained.

³ No amendments to this volume were promulgated during the period Jan. 1, 1987 to Dec. 31, 1988. The CFR volume issued January 1, 1987, should be retained.

⁴ No amendments to this volume were promulgated during the period Apr. 1, 1980 to March 31, 1988. The CFR volume issued as of Apr. 1, 1980, should be retained.

⁵ The July 1, 1985 edition of 32 CFR Parts 1-189 contains a note only for Parts 1-39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1-39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

⁶ No amendments to this volume were promulgated during the period July 1, 1986 to June 30, 1988. The CFR volume issued as of July 1, 1986, should be retained.

⁷ The July 1, 1985 edition of 41 CFR Chapters 1-100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.